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THE

LAW OF TONGA.



1891.

ENACTED BY THE LEGISLATIVE ASSEMBLY AND
SANCTIONED BY HIS MAJESTY
IN THE YEAR 1891.

BY AUTHORITY:

PRINTED FOR THE TONGAN GOVERNMENT BY
H. BRETT, GENERAL PRINTER, SHORTLAND AND FORT STREETS,
AUCKLAND, NEW ZEALAND.



THE

CRIMINAL AND CIVIL CODE

OF

THE KINGDOM OF TONGA.

CODIFIED AND PASSED BY THE LEGISLATIVE ASSEMBLY, SANCTIONED BY HIS MAJESTY, AND CONSTITUTED THE SOLE LAW OF TONGA ON NOVEMBER 15TH, 1891, WHEN ALL PREVIOUS ENACTMENTS WERE REPEALED.

BY AUTHORITY:

PRINTED FOR THE TONGAN GOVERNMENT BY H. BRETT, GENERAL PRINTER,
SHORTLAND AND FORT STREETS, AUCKLAND.

MDCCCXCI.

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BY H. BRETT, GENERAL PRINTER, SHORTLAND AND FORT STREETS,
AUCKLAND, NEW ZEALAND.

[TRANSLATION.]

PREFACE.

IT having long been evident that many of the Statutes conflicted with one another, and that others had never been published in the Tongan language, His Majesty was pleased to appoint us to frame a draft of a Code of Law to be submitted to the Legislative Assembly. In obedience to the King's command we duly submitted a draft for the consideration of the Legislative Assembly, and the Code as passed by the Assembly, and sanctioned by His Majesty, is now published for general information.

The objects sought by us were as follows :—

(1.) To make use of Tongan words and dispense with foreign expressions, except in the case of foreign words for which there is no direct equivalent in Tongan.

(2.) That the Law should be concise, but easily understood.

(3.) That reference to any given Section should be facilitated by classifying the Laws in accordance with their meaning, and by numbering the Sections consecutively throughout for easier reference in the Index.

(4.) To intersperse the Code with illustrations intended to elucidate passages that might perplex Magistrates or ordinary readers. Although the illustrations, which are printed in small type, have not themselves the force of law, yet, since they have all been approved by the Legislative Assembly, they should be read with the Law as showing the intention of the Legislators: and in the case of any doubt as to the meaning of the Law, the illustrations will indicate the proper construction.

We have adopted from the Laws of other countries such measures as seem suited to the needs of Tonga, and we venture to hope that the Code now published will be of service to the Kingdom.

J. U. TUKUAHO.

B. H. THOMSON.

NUKUALOFA,
August, 1891.

TRANSLATOR'S PREFACE.

THE former translations of the Laws of Tonga have shown one or other of two faults. They seem either to have been written with the view of impressing the foreign reader by an undue use of legal phraseology with the political advancement of the Kingdom, or they have so literally followed the native idiom as to entirely sacrifice grammatical expression in English. In both cases the result has been inaccuracy and confusion.

The object aimed at in the present translation is clearness. After the example of the Indian Penal Code (on which the Tongan Code is based) legal phrases have been avoided, and the Tongan idioms have been translated into their equivalent idioms in English, irrespective of the actual words.

The Mercantile Laws, consisting in the Arms, Customs, Harbours, Wharfage, and Postal Acts, were not originally drafted in Tongan, and the Tongan therefore is a translation of the present version. This fact is recognised in the "Enacting Act of 1891," which provides that in the event of any dispute arising as to the meaning of any portion of those Acts the English version shall be taken to be the true meaning.

Although the Constitution of 1888 was not revised during the Session of 1891, the English version was found to be so inaccurate and grammatically incorrect that a new translation has been made for publication as an Appendix to the present volume.

The explanatory Sections occurring in the Chapters relating to Customs and Postal Regulations, being merely *précis* of the Sections to which they refer, have been omitted from the translation.

CONTENTS.

APPENDIX.

AN ACT.

BE it enacted by the King and Legislative Assembly of the Kingdom as follows:

I. The Short Title of this Act shall be "The Enacting Act of 1891."

II. The Code of Law enacted by the Legislative Assembly in the session held in the year One thousand eight hundred and ninety-one shall become the law of Tonga upon a day to be fixed by Proclamation for such laws to come into force.

III. All laws now in force shall be repealed when the Code of Law enacted by the Legislative Assembly in the year One thousand eight hundred and ninety-one shall have come into force by Proclamation as aforesaid and such Code of Law enacted in the aforesaid session of the Legislative Assembly shall thereafter alone remain in force.

IV. In the event of any doubt arising with respect to the meaning of the law relating to Customs Wharves Post Office Harbours or Arms or any passage of which the translation is printed in English the words printed in English shall be held to be the true meaning of such passage.

Approved by the King on the 6th day of August in the year One thousand eight hundred and ninety-one.

JIOAJI TUBOU

THE STATUTES OF TONGA.

CODIFIED AND PASSED BY THE LEGISLATIVE ASSEMBLY.

1891.

ENGLISH VERSION.

Chapter I.

THE FORM OF GOVERNMENT.

1. The form of Government of this Kingdom is a Constitutional Government under His Majesty King George Tubou his Heirs and Successors according to the Constitution and the Government is divided into three Bodies :— Form of Government.

1. The King and Cabinet Council (the Ministry).
2. The Privy Council and Legislative Assembly.
3. The Judiciary.

THE KING.

2. The King shall take an oath to govern according to the Constitution and Laws of Tonga in the form of Coronation oath herein appointed: "I swear before God to uphold unbroken the Constitution of Tonga and to govern in accordance with the Laws of Tonga." Coronation Oath.

3. The King is supreme above all the chiefs and people but his Ministers are alone responsible for good government. Ministers responsible.

4. In the event of civil war or grave sedition it shall be lawful for the King with the consent of the Privy Council to proclaim martial law over any part or the whole of the Kingdom and it shall then be lawful to try persons accused of committing felony within the district under martial law before a Court presided over by a military officer commissioned by the King and the sentence of such Court shall be carried into effect when it has received the sanction of the King. Martial law—how proclaimed.

5. It shall be lawful for the King with the consent of the Privy Council to pardon any person who has been convicted of a breach of law provided that he shall not pardon any person convicted of maladministration by the Privy Council or Legislative Assembly. It shall not be lawful to pardon any person convicted of this offence. Prerogative of pardon.

6. It shall be lawful for the King to make treaties with foreign States provided that such treaties shall be in accordance with the law Treaties.

of Tonga. He may appoint his representatives to foreign States and receive the representatives of foreign States.

King may confer Titles and Estates.

7. It shall be lawful for the King to confer titles of honour and estates but it shall not be lawful for him to deprive any noble or hereditary chief of his hereditary lands except upon the conviction of such hereditary chief of felony. And in the event of any noble or chief being convicted of felony the King may appoint a member of the family of such chief to succeed to the title and hereditary lands of the chief so convicted.

Appointment of Ministers.

8. The King may appoint his Premier and Ministers with the consent of the Privy Council and he may dismiss at will his Premier and Ministers.

Coinage.

9. The King with the consent of the Cabinet may decree by Proclamation the coinage which shall be current in the Kingdom.

Immunity of the King.

10. It shall not be lawful to sue the King for debt in any Court except with the consent of the Cabinet.

Chapter II.

THE LEGISLATURE.

The Privy Council.

Members of Privy Council.

11. The Privy Council shall be composed of the King the Cabinet Ministers the Speaker of the Legislative Assembly the Governors of Haapai Vavau Niuafoou and Niuatobutabu the Chief Justice and any other person whom the King may be pleased to call to his Council.

Oath of Privy Councillors.

12. Every member of the Privy Council shall take the following oath in the presence of the King: "I swear before God that I will be loyal to George Tubou the rightful King of Tonga and that I will keep unbroken the Constitution of Tonga and that I will to the utmost of my power discharge my duty as a member of the Privy Council."

Councillors may attend every meeting.

13. Every member of the Privy Council shall have the right to attend every meeting and to vote upon every question submitted to the Council.

Quorum.

14. No Ordinance shall be passed nor important matter decided unless three members be present besides the King.

Legislative powers.

15. The Privy Council shall have power to pass Ordinances during the recess of the Legislative Assembly and such Ordinances after being approved and signed by the King shall have the force of law. Provided that all Ordinances passed by the Privy Council during the recess shall be submitted to the Legislative Assembly upon its next meeting and the Legislative Assembly shall have power to approve or repeal such Ordinances.

Estimates.

16. The Privy Council shall in the month of November of each year pass an Appropriation Ordinance and Estimates for the ensuing year and the Ordinance and Estimates shall be submitted to the next

meeting of the Legislative Assembly who may disallow any part of the Estimates not yet expended and rule that such disallowed items shall not be voted by the Privy Council for the service of the following year.

17. In the event of a vacancy to the Throne the Privy Council as then constituted shall retain all its powers until the Coronation of the King and the Premier holding office at the death of the late King shall have power to convene and preside over its meetings until the Coronation of the King.

Council to retain powers at King's death.

CLERK TO THE PRIVY COUNCIL.

18. The King shall appoint a Clerk to the Privy Council who shall record all the proceedings of the Council.

Clerk.

THE LEGISLATIVE ASSEMBLY.

19. The Legislative Assembly shall be composed of the Cabinet Ministers and Governors and Nobles appointed by the King and the Representatives elected by the people: And there shall be as many Representatives as there are Nobles.

Assembly—how constituted.

NOBLES.

20. The King may appoint Nobles to the number of not exceeding thirty-one (31) who shall have seats and vote in the Legislative Assembly and the rank and office of Noble shall descend to the lawful heirs male of each Noble: Provided that no person shall succeed to the office of Noble who has not attained the age of twenty-one (21) years or who has been convicted of felony or who is insane.

Qualifications of Nobles.

21. Should any Noble be convicted of treason or felony or be impeached and found guilty by his Peers in the Legislative Assembly he shall forfeit his title as a Noble and his inheritance and the King shall appoint some member of such Noble's family to succeed him.

Impeachment of Noble.

REPRESENTATIVES.

22. Any person who shall have attained the age of twenty-one and can read and write and has not been convicted of felony since the granting of the Constitution of one thousand eight hundred and seventy-five (1875) shall be eligible for election as a Representative of the People in the Legislative Assembly.

Qualifications for Representative.

23. Provided that no person who is a salaried public servant excepting His Majesty's Privy Councillors and the Mayors of towns shall be eligible for election.

Public servants not eligible.

24. There shall be as many Representatives of the People as there are Nobles and as there are at present thirty-one (31) Nobles there shall be thirty-one (31) Representatives elected to represent the several districts as follows:—

Electorates.

TONGATABU District of Nukualofa	... ...	4	
,, ,, Mua	... ...	3	
,, ,, Hihifo	... ...	3	
,, ,, Houma	... ...	1	
,, ,, Eua	... ...	1	
		—	12
HAAPAI District of Hahake	... ...	6	
,, ,, Luluga	... ...	2	
		—	8

VAVAU District of Neiafu and Uta	5	
„ „ the Otu Motu	2	
	—	7
NIUAFOOU		2
NIUATOBUTABU		2
		—
Total		31

ELECTION OF REPRESENTATIVES.

Qualifications of electors.

25. Any male person who has attained the age of twenty-one and has paid his taxes and is a Tongan subject by birth or naturalization and can read and write and has not been convicted of felony (an offence for which the penalty is two years' imprisonment or more) since the granting of the Constitution of 1875 shall be entitled to vote for the Representative of the district where his tax lands are situated.

Time of elections.

26. When the year in which the Legislative Assembly is to meet has arrived and it is necessary to elect the Representatives the Premier with the consent of the Cabinet shall appoint the time for holding elections and draw up regulations to control such elections and appoint Returning Officers for each electoral district.

Election to be by ballot.

27. Elections shall be conducted as follows:—On the day appointed for the election the electors of the district shall be summoned to a *fono* and the Returning Officers shall distribute to each of the electors a Ballot Paper explaining to the electors that each should write the name or names of the Representatives he desires to represent the district according to the number of Representatives laid down for each district in Section 24 and that no elector can write his own name as Representative and that each must sign his own name to the Ballot Paper. After sufficient time has been allowed for filling in the Ballot Papers the electors shall come up and place their papers in the Ballot Box.

Elections—how declared.

28. The Returning Officers shall then count the names on the Ballot Papers and declare at the *fono* the persons whose names have received most votes to be duly elected and forward a certificate to that effect to the Speaker of the Legislative Assembly together with the Ballot Papers.

EXPLANATION.—In a district for which there are four Representatives the candidate at the head of the poll receives thirty (30) votes, the second twenty-eight (28), the third twenty-five (25), while for the fourth seat three candidates receive an equal number of votes (24). A new Ballot would be held to elect one of the three as Representative.

Oath of elector.

29. Should it appear to any Returning Officer that any person proceeding to vote has no right to vote he shall refuse to receive his voting paper unless such person shall take the following oath: "I swear before God that I belong to this district and have paid my taxes in full and have not been convicted of felony."

Disqualification.

30. Should any person refuse to take this oath when called upon his vote shall not be recorded.

Penalty for false oath.

31. Any person who shall take this oath knowing it to be false shall be liable to punishment for perjury under Section 371.

Duration of Parliament.

32. The Representatives shall be elected for five years but should the King dissolve Parliament new elections shall be held for every district.

33. Whoever shall intimidate or bribe any person or persons to vote for any person as a Representative shall be liable to punishment according to Sections 270 and 279. Bribery

MEETINGS OF THE LEGISLATIVE ASSEMBLY.

34. The Legislative Assembly shall meet after two years and before the expiration of the third year since the previous meeting but it shall be lawful for the King to convene the Assembly before the expiration of the two years if he should think it expedient. Sessions of Parliament.

THE SPEAKER.

35. The King shall appoint one of the Nobles to be Speaker of the Legislative Assembly who shall preside over all meetings and shall hold office during the pleasure of the King. Speaker.

36. Should the Speaker be prevented from presiding by sickness the Premier shall inform the King who shall appoint one of the Nobles to preside temporarily over the Legislative Assembly until the Speaker be able to resume the chair and the Speaker shall resume the chair upon the first day on which he is able to attend the meeting of the Assembly. Deputy-Speaker.

RULES OF PROCEDURE.

37. The Legislative Assembly shall make its own Rules of Procedure subject to the conditions of the four sections next following: The meetings of the Assembly shall be opened and closed by the King either in person or by a Commission of three Nobles appointed by him. Opening of Parliament.

38. Every Noble and Representative shall take the following oath on taking his seat: "I swear before God that I will be loyal to George Tubou the rightful King of Tonga and that I will keep unbroken the Constitution of Tonga and that I will to the utmost of my power discharge my duty as a member of the Legislative Assembly." Oath of members.

39. Every Bill shall be read and passed three times before becoming law. Laws—how passed.

40. Votes shall be taken by a show of hands: but if there be any doubt about the numbers a division shall be taken. Divisions.

EXPLANATION.—In taking a division the Speaker shall order the members in favour of the measure to go to the side of the house on his right hand and the members against the measure to go to the side on his left hand and he shall count the numbers.

41. When any Bill shall have been passed by the Legislative Assembly it shall be presented to the King by the Speaker for his signature and having received the signature of the King the Great Seal shall be affixed to the Act and it shall thereafter become law unless any other period shall be specified in the Act itself. (See Section 231.) Royal assent.

DURATION OF PARLIAMENT.

42. The Representatives of the People shall be elected for five (5) years from the date of their election. And should any Representative die or resign during the session of the Legislative Assembly another Representative shall be forthwith elected to take his place if it shall be possible to hold the election immediately. But it shall be lawful for the King to dissolve Parliament and command new elections to be held before the expiration of the five years. By elections.

Chapter III.

THE EXECUTIVE.

The Privy Council.

Executive powers of Privy Council.

43. The King in Council shall be the highest executive authority in the Kingdom and the Premier shall be responsible for carrying out any Resolution of the Privy Council.

The Cabinet Council.

Members of Cabinet.

44. The Cabinet shall consist of the Premier the Minister of Finance the Minister of Lands the Auditor-General the Minister of Police the Chief Justice the Governors and any other Ministers whom it may please the King to appoint.

Appointment of Ministers.

45. The Ministers shall hold office during the King's pleasure and any Minister may hold one or more offices.

Rank of Ministers.

46. Every Minister shall be a member of the Privy Council and of the Legislative Assembly and shall hold the position of a Noble as long as he retains office.

Impeachment of Minister.

47. It shall be lawful to impeach any Minister before the Legislative Assembly if it should appear that his administration has been contrary to law.

Ministers retain office at demise of Crown.

48. In the event of a vacancy to the Throne the Cabinet in office when such vacancy occurs shall retain office until the Coronation of the King.

Meetings of the Cabinet.

Meetings held when required.

Quorum.

49. The meetings of the Cabinet Council shall be convened and presided over by the Premier or in the case of his unavoidable absence by the Assistant Premier with the Premier's consent. No meeting of the Cabinet Council shall take place unless at least three members be present besides the Premier. Meetings of the Cabinet shall be convened by the Premier whenever any question has arisen which is required by law to be decided by the Cabinet.

Voting.

50. Resolutions of the Cabinet must be by the votes of a majority and votes shall be taken by a show of hands.

Clerk to read resolutions.

51. At every meeting the Clerk shall read the resolutions of the previous meeting and the Minister whose department each resolution concerns shall state whether such resolution has been carried into effect or not.

Powers of Cabinet.

52. The Cabinet shall not have power to make any law but it shall be lawful for the Cabinet to draw up regulations under the authority of existing laws such as Regulations for the Police Gaols and other departments of the Public Service.

Cabinet may direct cases to be re-tried.

53. It shall be lawful for the Cabinet to command that any case decided by a Police Magistrate be re-heard if there shall appear to have been a miscarriage of justice and to suspend the execution of any

sentence of fine or imprisonment which shall appear to be excessive and to recommend the King to mitigate or remit any such sentence.

54. It shall be lawful for the Cabinet to authorise the Auditor General and Treasurer to transfer any item of the Estimates to the service of another department. Provided that the total money voted for the service of the year shall not be exceeded and that any money so transferred shall be reported to the Privy Council at its next meeting. Cabinet may modify Estimates.

55. In the event of it being impossible to hold a meeting of the Privy Council owing to the King's absence from Nukualofa it shall be lawful for the Cabinet to decide urgent questions and to authorise extraordinary expenditure in emergencies. Extraordinary functions.

56. It shall not be lawful for the Premier to decide any grave or important question or authorise any extraordinary expenditure without the consent of the Cabinet. Premier must consult Cabinet.

57. Notwithstanding the last preceding section the Cabinet shall not decide any important question when it shall be possible to hold a meeting of the Privy Council. Limitation of powers.

58. Every Minister shall report to the Cabinet Council any important or unusual occurrence that may have taken place in his department since the last meeting. Ministers to report to Cabinet.

CLERK TO THE CABINET.

59. The Chief Clerk of the Premier's Office shall be the Clerk of the Cabinet and shall keep the records. Clerk.

THE PREMIER.

60. The Premier shall be appointed by the King and shall hold office during the King's pleasure. Appointment of Premier.

61. The Premier shall be the Representative of the Kingdom to Foreign Nations and shall be the Keeper of the Great Seal and all State documents. Functions of Premier.

62. The Premier with the consent of the Cabinet shall have power to appoint all Police Magistrates Revenue and Customs Officers Clerks Police Gaolers and all subordinate officials. Patronage.

63. The Premier shall summon and preside over all meetings of the Cabinet. Premier to preside over Cabinet.

64. The Premier shall authorise all expenditure under the Estimates by signing vouchers for payment and shall authorise the issue of stores by signing requisitions. Premier to authorise expenditure.

65. The following departments shall be under the control of the Premier: — Education Public Works Government Buildings Government Vessels Government College Printing Office. Offices controlled by Premier.

66. The Premier shall not decide any grave or important question nor authorise extraordinary expenditure (not provided for in the Estimates) without the consent of the Cabinet. Limitation of powers.

ASSISTANT PREMIER.

67. The Assistant Premier shall have power to discharge the duties of the Premier whenever the Premier shall be prevented by absence sickness or any other cause from discharging his duties. Duties of Assistant Premier.

May authorise expenditure.

68. The Assistant Premier shall have power to authorise all expenditure under the Estimates by signing vouchers and may authorise the issue of stores by signing requisitions.

Appointment.

69. The King in Council may appoint an Assistant Premier provided that the Premier has advised the King to do so at the last preceding meeting of the Council.

TREASURER.

Duties of Treasurer.

70. The Treasurer shall be responsible for all public moneys paid into the Treasury. He shall not pay any money out of the Treasury upon any pretext excepting upon the authority of vouchers duly signed by the Public Officer the Premier and the Auditor General.

To cash cheques.

71. The Treasurer shall have all cheques and drafts paid into the Treasury converted into coin upon the first opportunity by having them cashed by a local merchant.

Routine of Subtreasurers.

72. The Premier shall appoint Sub-treasurers and Clerks in the districts of Haapai Vavau Niuafoou Niuatobutabu and Eua who shall receive the moneys from the various revenue departments upon the Monday in every week and upon the last day of the month and give signed receipts to the Clerk of each Department who shall pay in money.

Penalty for embezzlement.

73. The Sub-treasurers and Clerks shall not pay out or exchange any money upon any pretext whatever. And should any Sub-treasurer or Clerk infringe this section or be unable to account for any money for which he has given a receipt he shall on conviction be punished for embezzlement under Section 271.

Monthly abstracts.

74. The Assistant Treasurers shall forward to both the Treasurer and Auditor General monthly statements of cash received during the month from the Revenue Collectors.

Returns furnished by Revenue Officers.

75. Every Revenue Collector shall forward every month to both the Treasurer and Auditor General a statement of Revenue received and paid by him into the Sub-treasury during the preceding month together with the receipts signed by the Sub-treasurer and if he shall have received no Revenue during the month he shall sign and forward a blank statement.

Returns to be audited.

76. The Treasurer shall compare the Sub-treasurer's monthly return of cash received with the monthly statements of cash paid in by the Revenue Collectors and satisfy himself that the totals of the returns correspond.

Cash to be forwarded.

77. The Sub-treasurers shall forward their cash to the Head Treasury at Nukualofa whenever directed to do so by the Treasurer.

Annual financial returns.

78. The Treasurer shall prepare an annual statement of Revenue and Expenditure under the Estimates for publication in the Government Gazette.

AUDITOR-GENERAL.

Duties of Auditor-General.

79. The Auditor General shall be responsible that all vouchers passed by him for payment are properly authorised by the Premier or Assistant Premier and the Head of the Department and that there is provision for each voucher in the Estimates. All vouchers for goods shall have invoices of the goods attached to the vouchers before the Auditor-General shall pass them for payment.

80. The Auditor General shall direct all Heads of Departments to prepare the salary abstracts of their respective departments quarterly and shall cause them to correct any abstract which shall appear to be incomplete or incorrect.

Salary abstracts.

EXPLANATION.—If any officer has been dismissed or has died during the quarter, the Auditor General shall take care that salary is not drawn beyond the date of his death or dismissal.

81. In the event of any vote under the Estimates being exhausted the Auditor General shall at once inform the Premier and shall not pass any vouchers under that vote until a Supplementary Estimate has been passed by the Privy Council or Legislative Assembly.

Procedure when vote exhausted.

MINISTER OF LANDS.

82. The Minister of Lands shall be the King's Representative in all matters relating to lands. He shall have power to sign and deliver all deeds of leases and transfers and permits for foreigners to reside on lands owned by Tongan subjects.

Minister to sign all leases, &c.

83. He shall be responsible for the registration of leases and no lease shall be valid unless registered by him and supported by a deed of lease bearing his signature and seal. He shall also have power to register all mortgages liens and securities.

Minister to register all deeds.

EXPLANATION.—The Register is a book for recording leases mortgages and other important documents.

84. He shall have power to preside over a Land Court and to determine all disputes respecting hereditary estates and tax lands the property of Tongan subjects but his decision shall be subject to an appeal to the Privy Council.

Land Court.

85. He shall have power to grant deeds for hereditary tax lands to all Tongan subjects entitled to them by law but it shall not be lawful for the Minister of Lands to deprive any Tongan subject of his tax land except upon the written order of a Magistrate authorizing the forfeiture of hereditary tax lands as a penalty for failure to pay the land tax. (*See Chapter XIX.*)

Power to grant tax lands.

86. He shall register all hereditary tax land and upon receiving a Magistrate's order for forfeiture of tax lands he shall forthwith cancel the title to such tax land held by the persons named in such order.

Minister to cancel titles to forfeited tax lands.

87. He shall have control of all the public roads in the Kingdom.

Public roads.

88. He shall have power to appoint deputies in Haapai Vavau Niuafoou Niuatobutabu and Eua who may grant and register hereditary tax land.

May appoint deputies.

89. The Minister of Lands or his Representative shall collect the rents for all leases and shall pay such rents to the Nobles to whom they are due after deducting ten per centum (10%) for payment to the Treasury.

Minister or his Representative to collect rents.

MINISTER OF POLICE.

90. The Minister of Police shall have control of all the police and gaolers in the Kingdom and shall be responsible for their good order and discipline.

Minister of Police to control police and gaolers.

Public Prosecutor.

91. The Minister of Police or his representative shall be Public Prosecutor in all cases of felony and offences against the State.

EXPLANATION.—In the following offences, not being offences against the State, the police do not prosecute: Petty Assault, Slander, Destruction of Property, and Trespass. (See Section 144.)

Duties of Minister of Police.

92. The Minister of Police shall be responsible for enforcing the penalties of the law and for good order within the Kingdom.

He may order criminal cases to be re-tried.

93. The Minister of Police shall be responsible for carrying out the orders of the Courts and if he should consider that there has been a miscarriage of justice in any criminal case decided by the Police Court he shall lay such case before the Cabinet and it shall be lawful for him with the consent of the Cabinet to cause such case to be re-heard by the Supreme Court sitting without a jury.

GOVERNORS.

Governors to be Nobles *ex officio*

94. The King with the consent of the Privy Council shall appoint Governors of Haapai Vavau Niuafoou Niuatobutabu and Eua who shall hold office during the King's pleasure. They shall have seats in the Legislative Council as Nobles and be Members of the Cabinet and the Privy Council while they hold the office of Governor.

Governors to take orders from the Premier.

95. The Governors shall represent the Government in their respective districts and shall report regularly to the Premier upon the condition of their districts and shall carry out any orders they may receive from the Premier.

Governors may be impeached.

96. The Governors shall be responsible for enforcing the laws in their respective districts and for the proper supervision of their subordinate officers. And it shall be lawful to impeach before the Legislative Assembly any Governor whose administration has been contrary to law.

Governors may not incur liabilities.

97. It shall not be lawful for any Governor to incur any liability on behalf of the Government nor to disburse any public moneys.

Governors not to pass laws.

98. It shall not be lawful for a Governor to enact any law for his district: he shall only enforce the laws passed by the Legislative Assembly or Privy Council.

MAYORS OF VILLAGES.

Premier to appoint Mayors.

99. The Premier shall appoint Mayors and Officers for every village in the Kingdom and they shall receive direct emolument from the tax-payers of their respective villages.

Duties of Mayors.

100. The Mayors shall be responsible for the good order of their villages and shall report immediately to the police any breach of the law which shall have been committed in their villages and shall hold *fonos* for the purpose of reading and explaining to their people any new law or order they shall have received from the Premier during the week such order was received.

Mayors to report on taxes.

101. The Mayor shall hold frequent *fonos* to enjoin upon his people the payment of taxes and to ascertain the number of those who have not paid their taxes: and shall report to the Premier or the Governor at the end of every quarter the number of his people who are in arrears with their taxes.

Mayors to hold tax inquiries in certain cases.

102. Whenever the annual tax inquiry in his village shall be delayed the Mayor shall hold an inquiry in order to report to the Tax Collector the number of youths in his village who have arrived at the age of sixteen years to be recorded as taxpayers.

Chapter XV.

ADMINISTRATION OF JUSTICE.

103. There shall be two Courts in Tonga for the adjudication of all matters both civil and criminal:— The Courts.

1. The Supreme Court and District Court.
2. The Police Court.

EXPLANATION.—No subject of Great Britain, Germany, or America, or any other nation that may enter into similar treaty relations with Tonga can be tried in a Tongan Court for felony or sued for debt or damages. He is amenable only to the Consular Court in such cases, but for breaches of the laws relating to customs, taxation, public health, and local police he is amenable to the Tongan Courts. But in such cases the Magistrates must, if possible, inform the defendant's Consul before the trial.

SUPREME COURT.

104. The King with the consent of the Privy Council may appoint two or more Justices who shall hold office until the King in Council shall be pleased to remove them. King to appoint Justices.

105. The Kingdom shall be divided into three Supreme Court Districts and such Courts shall be presided over by one or more Justices as may be directed by the Privy Council:— Supreme Court Districts.

1. Tonga Eua Niuafoou and Niuatobutabu.
2. Haapai.
3. Vavau.

106. All matters within the jurisdiction of the Supreme Court that shall arise in one or other of these Districts shall be tried before the Court held in that District. Provided that it shall be lawful for the Justices of Haapai and Vavau by direction of the Minister of Police to remand any case to be tried in Tonga. Change of venue in certain cases.

EXPLANATION.—1. A has killed B at Haapai and it appears to the Justices that the Haapai people are likely to shield A by intimidating the witnesses. The Justice at Haapai would remand A to be tried at Nukualofa.

2. An European sues another European for money lent upon security of land at Vavau and the Justice at Vavau is not clear upon the point of law. The case should be tried at Nukualofa in Tonga.

107. The Supreme Court shall have jurisdiction in all civil cases in which the amount claimed exceeds two hundred and fifty dollars ($250) and in all criminal cases for which the maximum penalty by law exceeds two hundred and fifty dollars ($250) or two years' imprisonment and shall hear all appeals from the decision of the Police Court in civil cases and shall re-hear any criminal cases brought before it by the Minister of Police for re-hearing. Jurisdiction.

108. There shall be no appeal from the sentence of the Supreme Court in criminal cases save by petition to the King. No appeal in criminal cases.

109. When any matter shall arise within the jurisdiction of the Supreme Court application shall be made to the Clerk who shall apply to the Justice to appoint a day for the hearing. Application for hearing.

110. In all civil cases the fees shall be paid before the application is entertained. Fees paid in civil cases.

111. The Justices shall have power to grant marriage licenses and decrees of divorce and they shall hold Courts in the month of Powers of Justice.

December of each year for the purpose of granting exemptions from taxes to aged and infirm persons.

Criminal cases tried by jury.

112. All criminal cases except cases ordered by the Cabinet to be re-heard shall be tried before the Justice and a Jury of twelve.

JURIES.

Qualifications of Jurymen.

113. All adult male subjects of Tonga who are taxpayers and can read and write and have not been convicted of felony shall be liable to serve on juries and it shall be lawful for the Minister of Police to command any such person to attend the Court as a juryman. Provided that the Nobles Representatives of the people Ordained Ministers Schoolmasters Collegians and Public Servants shall be exempt from serving as jurymen.

Penalty for non-attendance.

114. Whoever shall disobey a summons to serve on a Jury unless prevented by sickness shall be liable on conviction to a fine of not exceeding fifty dollars ($50) to be recovered by distress: but no person shall be compelled to serve twice on juries in any one year.

Challenging jurymen.

115. It shall be lawful for any person charged with an offence to challenge six (6) Jurors out of the twelve (12).

EXPLANATION.—If the accused believes that any of the Jury will not give an unbiassed verdict in his case he may ask that any of them, to the number of six, may be withdrawn, and others substituted.

Oath of juror.

116. Every Juror shall be present throughout the sitting of the Court and shall on entering the Court take the following oath:—"I swear that I will give a true verdict without favour or ill-will according to the evidence given before me in this case. So help me God."

Foreman.

117. The Minister of Police shall appoint one of the Jury to be foreman.

Fees to jury.

118. Every Juryman shall receive two shillings (2s.) for each whole day on which he has attended the Court.

CLERK OF THE SUPREME COURT.

Duties of Clerk.

119. The Clerk of the Supreme Court shall have power to administer oaths according to the form laid down in Section 139. He shall receive all fees of the Court and shall pay such fees to the Treasurer. He shall attend all sittings of the Supreme Court and keep a record of all the proceedings. He shall also have custody of all wills filed in his office and shall have power to administer the estates of all deceased persons. He shall also register the births deaths and marriages in his district.

RULES OF PROCEDURE.

CRIMINAL PROCEDURE.

Examination of witnesses.

120. After the Jury has been empannelled and sworn the charge shall be read to the accused and the witnesses shall be examined in accordance with the rules laid down in Sections 156 and 157 hereof.

Judge's charge.

121. After all the evidence has been heard the Judge shall sum up the evidence and charge the Jury explaining to them the law that bears upon the case and the Jury shall then consider their verdict amongst themselves as to whether the charge has been proved or not.

Form of verdict.

122. If the Jury shall agree upon their verdict the foreman shall stand up and the clerk shall ask him "What is your verdict: is

the prisoner guilty or not guilty?" and the foreman shall answer "Guilty" or "Not guilty" as the case may be.

123. If the Jury are not unanimous they shall give no verdict and if it shall appear to the Justice that the Jury cannot agree he shall discharge them and a new Jury shall be empannelled and the case tried again from the beginning.

Jury to be unanimous.

124. Whenever the Court shall adjourn for the night the Minister of Police shall provide quarters for the Jury and be responsible that no person shall have access to them to discuss the case until the end of the trial.

Jury to be secluded during trial.

125. When the Jury shall have delivered a verdict of "Guilty" the Justice shall pass sentence in accordance with the law but should the verdict be "Not guilty" the Justice shall order the accused to be set at liberty forthwith.

Sentence to be passed.

126. In cases that have been sent from the Police Court by the Cabinet for re-trial the Justice shall sit alone without a Jury.

No Jury in cases sent for re-hearing.

Civil Procedure.

(See Section 168.)

127. The civil procedure in the Supreme Court shall be the same as that laid down in Section 168 to 185 hereof and after all the evidence has been heard the Justice shall charge the Jury and explain to them the law that bears upon the case. *(See the Law of Evidence, Sections 190 to 206.)*

Civil procedure

128. The Jury shall then consider amongst themselves whether the plaintiff or defendant has proved his case and if they decide that the plaintiff has proved his case the Jury shall also give a verdict for the amount which the defendant shall pay to the plaintiff apart from the costs.

Form of verdict.

129. The plaintiff shall pay the costs if the verdict is given for the defendant and the defendant shall pay the costs if the verdict is given for the plaintiff.

Payment of costs.

130. In any civil suit heard on appeal from the Police Court if the decision of the Police Court be reversed the defendant in the appeal case shall pay the costs of appeal and refund to the plaintiff the costs of the original suit but if the decision of the Police Court be upheld the plaintiff in the appeal case shall pay the costs of both suits.

Costs in the case of appeal.

Appeal from the Supreme Court.

131. There shall be no appeal against any decision of the Supreme Court except by petition to the King in Council which petition shall be presented to the Premier. In civil cases the King on the advice of his Council may order the case to be tried again before another Justice and in criminal cases the King may remit part or the whole of the sentence.

No appeal except by petition to the King.

POLICE COURTS.

132. Police Courts shall be held in the following places: Nukualofa in Tongatabu Lifuka in Haapai Neiafu in Vavau Agaha in Niuafoou Hihifo in Niuatobutabu Ohonua in Eua and in any other place which the Minister of Police may direct and such Courts shall have jurisdiction in both civil and criminal matters.

Police Courts.

Police Magistrates—how appointed.

133. Each Police Court shall be presided over by a Police Magistrate appointed by the Premier and it shall be lawful to appoint a European Police Magistrate to try any civil or criminal case in which a European is concerned either as plaintiff or defendant or both. Provided that such cases may be lawfully decided by a Native Police Magistrate.

Time of Sitting of Criminal Court.

134. The Police Court shall be held at ten o'clock a.m. on the Tuesday in every week in the Court-house of the district for the hearing of indictable offences and misdemeanours and such Court may be adjourned from day to day excepting Sundays but the Minister of Police shall have power to order a special sitting of the Court to be held at any time if necessary for the promotion of justice.

Time of Sitting of Civil Court.

135. Police Courts for the hearing of civil cases shall be held on the first Thursday in every month at ten a.m. at the Court-house of the district and may be adjourned from day to day excepting Sundays.

Limit of Jurisdiction in criminal cases.

136. Police Magistrates shall hear all criminal cases and breaches of the law that may be brought before them and shall give decisions in all cases in which the punishment provided by law does not exceed a fine of two hundred and fifty dollars ($250) or two years' imprisonment.

Procedure in indictable offences.

137. When any person shall be charged with felony or a breach of the law for which the penalty provided is greater than two hundred and fifty dollars ($250) or two years' imprisonment the Police Magistrate shall hear the case and if he considers the accused to be innocent he may discharge him but if it appears to him that the accused is guilty he shall commit him to the Supreme Court. Provided that any person accused of felony and discharged by a Police Magistrate may be brought up again on the same charge if further evidence against him shall have been obtained since his discharge.

Limit of jurisdiction in civil cases.

138. Police Magistrates shall hear and determine all civil suits brought before them in which the amount claimed does not exceed two hundred and fifty dollars ($250) but all suits in which the amount claimed exceeds two hundred and fifty dollars ($250) shall be determined only by the Supreme Court.

Form of taking affidavit.

139. The Police Magistrate shall have power to take affidavits and administer oaths. The statement to be sworn to shall be written down and after reading it aloud the attesting party shall say—"I swear that this statement is true to the best of my knowledge and belief. So help me God" and shall then kiss the Bible and sign his name to the statement and the Police Magistrate shall write the words "Sworn before me," and sign his name and enter the date on which the oath was taken.

Special powers in certain districts.

140. The Police Magistrates at Niuafoou Niuatobutabu and Eua shall have special power to issue marriage licenses.

CLERK OF POLICE COURT.

Duties of Clerk of Police Court.

141. It shall be lawful for the Clerk of the Police Court to administer oaths and take depositions in the form laid down in Section 139 and to receive the fees fines and forfeitures of the Court which he shall pay to the Treasurer. He shall attend all sittings of the Court and record the particulars of each case and be responsible for the keeping of all documents and records of the Court. He shall furnish transcripts of the evidence taken from shorthand notes and shall furnish

copies of the decisions in any case to any person who shall apply for them and pay the lawful fees and he shall prepare abstracts of the cases heard each month to be signed by the Magistrate and forwarded to the Premier.

PROCEDURE OF POLICE COURT.

Criminal Jurisdiction.

142. Any officer of the police or any person who wishes to prosecute any person for a breach of the law shall apply to the Clerk of the Police Court for a summons and shall clearly state the nature of the offence and the time and place in which it was committed.

Mode of initiating prosecution.

143. The Clerk shall thereupon make out a summons in the form laid down in schedule 1 hereof stating the name of the accused and the offence and the time when he is called upon to appear and the Magistrate shall sign the summons which shall then be served upon the accused by an officer of police.

Summons—how issued.

144. No fees shall be paid for a summons for any of the following offences which are offences against the public :—

No fees for offences against the public.

1. Felonies punishable only by imprisonment.
2. Larceny.
3. Grievous Assault.
4. Malicious Damage to Property.
5. Damage to Government Property.
6. Adultery.
7. Fornication.
8. Offences against Customs Quarantine and Postal Laws.
9. Offences against the Pound Law.
10. Offences against Town Regulations.
11. Offences in which the police or public servants prosecute on behalf of the Government.

145. No person convicted before any Court shall be compelled to pay costs unless costs were paid by the prosecutor. In charges laid by the public servants the accused if convicted shall not be compelled to pay costs.

Costs not payable in certain cases.

146. Fees shall be paid for summons as laid down in the schedule hereof for the following offences which are offences against the individual :—

Fees payable for offences against the individual.

1. Petty assault.
2. Trespass.
3. Slander and libel.
4. Abusive language.
5. Destruction to property by animals.
6. Bodily injury by animals.
7. Offences in which the injured individual is prosecutor.

Explanation.—The police shall not prosecute in breaches of the law where the injury is a private one :—1. A uses abusive language to B, a policeman, in A's house, at a kava party. B must pay fees, as he was not on duty at the time.
2. A abuses B for arresting E and pushes him. B will not pay fees, because to obstruct a policeman while in the execution of his duty is an offence against the public.

147. The Clerk shall draw up subpœnas to be signed by the Magistrate to summon any witness required by the prosecutor or defendant and fees shall be paid for subpœnas according to the schedule hereof: provided that no fees shall be paid for subpœnas for witnesses required to give evidence for the Government in offences enumerated in Section 144.

Subpœnas.

Fees in advance.

148. All fees shall be paid in advance and no summons for which fees are required by law shall be issued until such fees are paid.

Service of summons.

149. Summons shall be served at least twenty-four hours before the case is heard.

EXPLANATION.—Summons are to be served as follows: The policeman shall give the summons into the hand of the defendant, but if the defendant shall refuse to take it, then the summons shall be laid down before him. If the policeman cannot find the defendant, the summons may be left at the defendant's last place of abode, and the policeman should tell any person residing there to give it to the defendant.

Warrants of arrest.

150. In the case of a charge of felony or misdemeanour where the accused is likely to abscond the Magistrate shall issue a warrant of arrest in the form of schedule 2 hereof and the police shall forthwith arrest the accused and confine him at the police station and bring him before the Magistrate at the next sitting of the Court.

EXPLANATION.—Arrests are to be effected as follows: The policeman shall touch the person and say the words "I arrest you in the King's name," and shall show him the warrant. If the accused attempts to escape or is violent, he may be handcuffed and brought by force to the police station, but no more force must be used than is necessary. If the policeman is unable to effect the arrest without assistance, he may call upon any bystander in the King's name to assist him, and if anyone so called upon should refuse he would be liable to a penalty. (See Section 278.)

Charge sheet.

151. All cases to be heard by the Police Court shall be entered upon the charge sheet with the name of the accused and the offence with which he is charged and the names of the prosecutor and witnesses and the cases shall be called for hearing consecutively from the charge sheet.

Dismissal of case.

152. If the prosecutor whether a public servant or not shall fail to appear when called the accused shall be at once discharged.

Accused to be arrested if he disobeys summons.

153. Should any accused person fail to appear when his name is called the policeman who served the summons shall make oath that he duly served the summons and the Magistrate may thereupon sign a warrant for his arrest and the policeman may arrest him and confine him at the station until the next sitting of the Court when he shall be brought up and the Magistrate may discharge the witnesses and order them to appear at the next sitting of the Court.

EXPLANATION.—This section refers only to criminal cases, and has no reference to civil procedure.

Charge and plea of accused.

154. If the accused shall appear when called he shall stand up respectfully in the Court and the Clerk shall read the charge and ask him whether he pleads "Guilty" or "Not guilty" and shall enter his answer accordingly in the records.

EXPLANATION.—The accused cannot at this stage make a statement, but may only answer "Guilty," or "Not guilty." He will have an opportunity for making his statement after all the evidence for the prosecution has been given.

Accused to appear in person.

155. It shall not be lawful for any person accused of an offence to appoint any person to represent him. If he should fail to appear in obedience to the summons he may be arrested on a warrant and confined until the next sitting of the Court.

Oath of witness.

156. The witnesses for the prosecution shall then be sworn as follows:—"I swear that I will speak the truth in the evidence that I shall give before the Court. So help me God." And shall kiss the Bible.

EXPLANATION.—If the witness be a Quaker, or one who does not profess the Christian Faith, he shall be affirmed as follows:—"I solemnly affirm that I will speak the truth in the evidence that I shall give before this Court," and any person giving false evidence on affirmation would be liable to the penalty for perjury.

Cross-examination of witnesses.

157. After each witness for the prosecution has given his evidence and has answered any questions the Court may put to him the accused upon shall be asked whether he desires to put any questions to him

his evidence and the Magistrate shall cause the witness to answer without reservation the questions the accused may wish to put.

158. If it should appear to the Magistrate that the charge be wrongly worded it shall be lawful for him to order the charge to be amended and the accused shall be remanded until the next sitting of the Court when he shall appear upon the amended charge.

Charge may be amended.

159. When all the witnesses for the prosecution have given their evidence the accused shall be asked to make his statement but he must not be sworn nor compelled to make any statement unless he chooses.

Statement of accused.

EXPLANATION.—The Magistrate should never speak harshly to an accused person nor ask him questions likely to incriminate him, but only questions necessary to elucidate the case. He should give due weight to the statement of the accused for he may be speaking the truth although he is not on oath.

160. It shall be lawful for the prosecutor at any stage of a case to withdraw the charge.

Charge may be withdrawn.

161. After the accused has had an opportunity for making his statement he shall be allowed to call witnesses if he desires to do so and they shall each give their evidence on oath and answer the questions of the accused and of the Magistrate. The prosecutor shall then be allowed to ask them any questions he may wish to put concerning the evidence they have given.

Witnesses for defence.

162. After hearing all the evidence the Magistrate shall give his decision and the Clerk shall record it in the minute book.

Decision.

163. After the closing of the Court the Clerk shall make out the warrants for fine or imprisonment according to the sentences passed in Court and the Magistrate shall sign them and deliver them to the police to be executed.

Warrants.

164. It shall be lawful for the Magistrate to adjourn any criminal case and remand the accused for the purpose of obtaining further evidence or for a similar reason.

Remands.

165. It shall not be lawful to try any person for a crime or misdemeanour unless such person is present in Court.

Accused must be present.

166. No allowances shall be granted to witnesses.

No witness' expenses.

EXPLANATION.—No compensation shall be made to any person for the time spent in attending any Court as a witness.

APPEALS IN CRIMINAL CASES.

167. Should any person convicted before the Police Court feel aggrieved at the decision he may appeal in writing to the Minister of Police praying that his case may be re-heard and should it appear to the Minister of Police that there has been a miscarriage of justice he may with the consent of the Cabinet order the case to be re-heard by the Supreme Court without a jury and no fees shall be payable for such re-hearing.

Appeals—Criminal.

CIVIL PROCEDURE.

168. Any person who may desire to recover from another a debt or damages or property or any kind of indemnity he may apply to the clerk of the Police Court for a summons and upon the receipt of the fees laid down in the schedule hereof the clerk shall issue the summons in the form laid down in schedule 3 hereof.

Action—how commenced.

EXPLANATION.—Civil actions are not confined to debts, but include also breaches of contracts, and all cases that are not offences, but are in the nature of torts, for which no special law is provided.

1. A sells to B a house to which he believes himself to be entitled, though the house legally belongs to E. E may sue A and B in the Civil Court for the reversion of his house, and the Court may order the house to be returned to E, and the money received by A to be returned to B.

2. A borrows a cart from B, and returns it with a damaged wheel: B may sue A in the Civil Court for the value of the damage sustained.

Limit of jurisdiction.

169. No summons shall be issued by a Police Magistrate if the amount or value sued for exceeds two hundred and fifty dollars ($250). The Supreme Court alone can hear a suit for a larger amount than two hundred and fifty dollars ($250).

Service of summons.

170. The summons may be served upon the defendant either by the police or any other person at least forty-eight hours before the Court sits and the mode of service shall be the same as that laid down in Section 149.

Subpœna.

171. Subpœnas to witnesses as laid down in Section 147 shall be issued upon payment of the fees.

Procedure in Court.

Judgment by default.

172. Upon the sitting of the Court the names of both plaintiff and defendant shall be called in a loud voice. If the plaintiff fails to appear the Magistrate shall give judgment for the defendant but if the defendant fails to appear the person who served the summons shall make oath that he duly served it on the defendant forty-eight hours before the sitting of the Court and the plaintiff shall then produce sworn evidence in support of his case and if the Magistrate considers the claim proved he shall order that the defendant shall pay the amount claimed together with costs of the case and the Clerk shall make out an order signed by the Magistrate for the payment of the amount to the Court within fourteen (14) days when if such amount be not paid it shall be recovered by distress.

Adjournment for illness.

173. But if it shall be proved that either plaintiff or defendant were too ill to attend the Court the Magistrate shall adjourn the case and order all the witnesses to appear upon the day appointed.

Plaintiff's witnesses.

174. If both parties appear or their representatives the Clerk shall then administer the oath to the plaintiff's witnesses who shall give their evidence upon oath and the defendant may ask them any questions concerning their evidence.

Defendant's witnesses.

175. The Clerk shall then administer the oath to the defendant's witnesses and they shall give their evidence in turn and the plaintiff may then ask each of them any questions concerning their evidence.

EXPLANATION.--The Magistrate must give equal weight to the evidence for the plaintiff and defendant, both parties being on oath: the defendant is not accused of any offence, and may have no greater motive to give false evidence than has the plaintiff.

Questions by Court.

176. All the witnesses shall answer respectfully any questions the Magistrate may put to them concerning the case.

Judgment.

Costs.

177. After hearing all the evidence the Magistrate shall give judgment that either the whole or part of the claim be paid or that nothing be paid by defendant but if the Magistrate decides that the defendant shall pay any part of the claim he shall also order him to pay to the plaintiff all costs of the case which the plaintiff may have paid to the Clerk.

EXPLANATION.—A has three witnesses and B only one. The Magistrate shall consider which evidence is most credible for three persons may have agreed to lie, while one may be speaking the truth.

Counsel.

Suits may be withdrawn.

178. In civil cases it shall be lawful for either plaintiff or defendant to appoint some person to represent him in the Court, but it shall not be lawful for any foreigner to appear for or speak for or act as counsel for any native of Tonga in any Court. It shall be lawful for the plaintiff to withdraw the suit at any stage of the case.

179. It shall be lawful for the Magistrate if he think proper to adjourn any case for the production of further evidence, or for any such cause. Adjournment.

180. After the Magistrate has given his decision in the case the Clerk shall record it and if the order be for the payment of money the Magistrate shall make an order that the money and the costs be paid within fourteen days or levied by distress in default of payment and shall give the warrant to the Inspector of Police for execution. Judgment enforced.

181. If the defendant in any case shall wish to lay a counter claim for money against the plaintiff at the same sitting of the Court and shall pay the fees the Magistrate shall first hear the evidence in the one case and then the evidence in the other case before giving his decision and after hearing both cases he shall give one decision for both cases. Cross action.

EXPLANATION.—A claims 10 dollars from B, for a horse he sold to B, and B claims 15 dollars from A for repairs to his house. The Magistrate shall hear both cases, and, if he considers both claims established, he will order A to pay to B five dollars and the cost of B's action.

182. It shall not be lawful for a European or Asian to sue for a debt from any Pacific Islander if such debt was contracted after May 4th 1890 nor to sue for more than fifteen dollars ($15) for any debt contracted between August 1st 1881 and May 4th 1890 nor to sue for more than five dollars ($5) for any debt contracted between September 17th 1878 and August 1st 1881. Debts not recoverable from natives.

183. Notwithstanding the provisions of the last preceding Section it shall be lawful for any person whether European Asian or Pacific Islander to sue any person for a breach of any written contract countersigned by a Police Magistrate in the form laid down in Chapter XXIII. Breach of contract actionable.

184. It shall be lawful for any Tongan subject or Pacific Islander to sue any European or Asian for a debt provided that such action is in accordance with the treaties made with foreign Powers and it shall be lawful for any Tongan subject to sue any Tongan subject for debt. Debts recoverable from Europeans.

185. It shall not be lawful to sue any person for debt or damages after the expiration of five (5) years from the date on which such liability was incurred, nor to sue for property which has been in the undisputed possession of any person for more than five (5) years. Statute of Limitations.

APPEALS IN CIVIL JURISDICTION.

186. Should any person desire to appeal from the decision of the Police Magistrate in a civil suit he shall give notice to the Clerk before the expiration of seven (7) days from the date of such decision and pay a fee of ten dollars ($10) and the Clerk of the Supreme Court shall notify the Inspector of Police and apply to the Justice to appoint a day for hearing. Appeal.

CONTEMPT OF COURT.

187. Whoever being a witness shall refuse to be sworn or affirmed or shall refuse to give evidence when ordered to by the Magistrate or shall wilfully pretend to misunderstand the questions put to him shall be deemed guilty of contempt of Court and may at the Contempt of Court.

discretion of the Magistrate be imprisoned for not less than one hour and not exceeding one month.

EXPLANATION.—Any sentence for contempt of Court must be passed on the spot by the Magistrate, after due warning has been given to the witness, and the Clerk shall at once make out his warrant and hand it to the police for execution. No person can be prosecuted for contempt at another sitting of the Court: the penalty must be inflicted at the time.

Tampering with witnesses.

188. Whoever shall attempt to persuade a witness not to give evidence shall on conviction be sentenced to pay a fine of not exceeding one hundred dollars ($100) or to not exceeding three months' imprisonment in default of payment or to not exceeding three months' imprisonment without the option of a fine.

EXPLANATION.—This charge may be laid in the regular form by serving a summons on the accused, or the penalty may be inflicted on the spot, after evidence has been taken, as the Magistrate thinks best.

Disorderly conduct in Court.

189. Whoever shall after due warning by the Magistrate behave disrespectfully or in a disorderly manner during the sitting of the Court before a Justice or a Police Magistrate or shall speak in a threatening or disrespectful manner to the Justice or Magistrate during the sitting of the Court shall whether he be a witness or not be liable to imprisonment for not less than one hour or not exceeding one month.

EVIDENCE.

Evidence to be sworn.

190. All evidence that shall be given in the Courts of Tonga shall be upon oath or affirmation according to Section 156. This shall not apply to the statement made by any person accused of felony or misdemeanour.

Hearsay inadmissible.

191. A witness shall testify only to what he has seen or knows of his own certain knowledge. No report or hearsay statement shall be received as evidence.

Statement on arrest admissible.

192. Notwithstanding the provisions of the last preceding section the statement made by a person accused of felony to the policeman arresting him may be received as evidence.

Proof of guilt.

193. When any person shall be accused of felony or misdemeanour he shall be accounted innocent until it has been proved by the evidence of witnesses that he is guilty.

EXPLANATION.—The Magistrate must not prejudge the accused, but leave it to the prosecutor and the witnesses to prove the charge against him. If they cannot prove it the accused must be acquitted, whatever the magistrate's impression may be as regards his guilt.

Previous character.

194. Evidence as to the previous character of an accused person is admissible.

EXPLANATION.—If a person is charged with larceny, and the police produce evidence that he has been previously convicted of theft, his sentence should be heavier than if it was his first conviction.

Handwriting.

195. A written contract countersigned by a Magistrate and handwriting whether signed or unsigned shall if the Court is satisfied that it is genuine be taken as evidence.

Contracts with natives.

196. Notwithstanding the provision of the last preceding section no written undertaking by a Pacific Islander to pay money to an European or Asian shall be admissible as evidence unless countersigned by a Magistrate in accordance with Chapter XXIII.

Tradesmen's books.

197. Tradesmen's books are not admissible as sole proof of a customer's debt unless accompanied with proof of the acceptance of the goods or other corroborative evidence.

198. The dying statement of a murdered person may be produced in evidence but no other written statement shall be admissible against a person accused of an offence although the person who made it may be absent from the Kingdom.

Dying statement.

EXPLANATION.—It is provided in the Constitution that the witnesses against a person charged with an offence shall be brought face to face with him, and that he shall hear their evidence and put questions to them. The production of a witness' written statement only would therefore be contrary to the Constitution.

199. No person shall be convicted of Treason Sedition or Perjury unless at least two witnesses are produced in support of the charge.

Two witnesses required.

200. In trials for Perjury the records in which the oath was registered must be produced.

Perjury.

201. No person shall be convicted of an offence upon the sole evidence of an accomplice: any person who shall consent to give evidence against an accomplice shall be exempted from punishment.

King's evidence.

202. Circumstantial evidence shall be admissible but shall not be necessarily conclusive without direct evidence.

Circumstantial evidence.

EXPLANATION.—1. A was found dead, with his throat cut, and B, who lived with A, was found to have blood on his clothes, while the footmarks in the sand near A's body corresponded with B's foot. This is circumstantial evidence, and, although it is strong evidence that B was the murderer, still B cannot be convicted upon this alone, without some direct evidence, such as E, who heard A and B quarrelling.
2. A's house was broken open and some clothes stolen, and B was found wearing some of the stolen articles. This would be circumstantial evidence that B broke open the house.

203. Every person may be called as a witness in any Court excepting the King.

Witnesses.

204. No witness shall be compelled to give an answer to any question when such answer would tend to convict him of felony.

Protection of witnesses.

205. Should any child be summoned as a witness and should it appear to the Magistrate that such child is too young to understand the nature of an oath his evidence shall not be accepted.

Evidence of children.

206. Justices or Magistrates shall decide every case solely upon the evidence given before them in Court without taking into account anything that they may have heard outside the Court.. *(See Section 372.)*

Decision on evidence.

GENERAL RULES.

207. No Justice or Magistrate or Juror shall adjudicate upon any case in which any of his relations are concerned either as plaintiff or defendant.

Justice not to try relations.

EXPLANATION.—"Relation" in this Section shall mean, grandfather, great-uncle, father, uncle, mother, aunt, brother, sister, son, daughter, grandson, grand-daughter, grandmother, nephew, or any relation whom the Justice, Magistrate, or Juror may regard too much to give an unbiassed opinion on his case.

208. Should any boy less than twelve years of age be charged with an offence he shall not be sentenced according to the law but it shall be lawful for the Magistrate to order that he be whipped by the police with not exceeding ten (10) lashes. If such boy should have committed an offence resulting in injury to any person or destruction of property the Magistrate may order the father or guardian of such boy to pay for the injury or damage done and such payment shall be recovered by distress.

Boys may be whipped.

209. No person shall be tried for an offence committed outside the Kingdom but it shall be lawful to arrest any person accused of felony in any country which has an Extradition Treaty with Tonga and to convey such person to that country in accordance with the Treaty.

Extradition.

Accessories.

Conspiracy.

210. Should a number of persons conspire together to do an unlawful act and should only one of their number commit such unlawful act they shall on conviction be all deemed to have committed such unlawful act although only one of them may have committed it.

Explanation.—The Magistrate should consider which of them should receive the heaviest punishment, and the punishment should be graduated in accordance with the complicity of each of them.

Accessory.

211. Should any person knowingly assist another in doing an unlawful act he shall be deemed to be equally guilty with the person who committed such act.

Accessory before and after fact.

212. Should any person be aware that a felony is about to be committed and neglect to report it to a police officer or mayor or village officer or give assistance to any person who has committed felony knowing at the time that he has committed such felony he shall be liable on conviction to not exceeding half the penalty provided by law for the felony committed by such person.

Criminal Negligence.

Criminal negligence.

213. Should any person commit a breach of the law and any person suffer bodily injury thereby he shall on conviction be liable to not exceeding half the penalty to which he would have been liable if he had knowingly injured such person and he shall also pay damage to the injured person as assessed by the Court.

Explanation.—A tethers his horse on the public road, and B, riding at night, is thrown from his horse by the tether rope, and breaks his arm. A is liable to a penalty of not exceeding one hundred dollars ($100), or six months' imprisonment, that being half the penalty to which he would have been liable if he had intentionally injured B. (See Section 303.)

Search Warrants.

Search warrants.

214. Should any person have reason to believe that stolen property or articles forbidden by law are concealed in any house or premises it shall be lawful for him to make an affidavit before a Magistrate describing such property and the place in which he believes it to be hidden whereupon the Magistrate shall issue a search warrant in the form of Schedule 9 hereto and the police shall proceed with the warrant to search for the property described therein and may command in the King's name that any door or receptacle be opened and if access be refused they may break open such door or receptacle and search for such property.

Distress Warrants.

Distress warrants.

215. Every distress warrant shall be in the form laid down in Schedule 8 hereto and shall be signed by the Justice or Magistrate who decides the case. No person shall be liable to the execution of a distress warrant more than once on the same judgment.

Fees payable.

216. Save and excepting distress warrants for sums owing to the Crown fees shall be paid in advance for issuing distress warrants by the persons applying to have them executed.

Mode of execution.

217. Upon receipt of the fees the Clerk of the Court shall deliver the distress warrant to the Inspector of Police who shall proceed to execute it in accordance with the terms of the warrant but should the person against whom the judgment was obtained be in receipt of salary from the Government the Clerk may issue an order to the Treasurer informing him of the judgment and the Treasurer shall file such order until the pay-day next ensuing when the amount of the

Salary impounded.

judgment shall be deducted from the salary of the debtor and handed to the Inspector of Police for transmission to the person to whom it is due. But if the instalment of the salary be insufficient to meet the order the balance shall be deducted from the next instalment of salary.

218. Distress warrants shall be executed as follows:—The Police Officer shall proceed to the house of the person on whom the warrant is to be executed and shall make an inventory of all his effects both inside and outside his house and shall then announce the sale by *Fanogonogo* in the village in which the sale is to take place and also in the neighbouring villages at least one hour before the sale. At the appointed time after giving the people time to assemble the officer shall remove the goods to the public square and sell them one by one to the highest bidder until the amount of the warrant is satisfied.

Seizure and sale.

219. All goods sold by auction shall be paid for before delivery and an inventory of the goods and the prices received for each and the name of the recipient of the money shall be entered on the back of the warrant and the warrant shall then be returned to the Clerk of the Court.

Return of writ.

220. Whoever shall conceal any goods and chattels against which a distress warrant has been issued or shall make a pretended sale or gift of his goods to avoid execution or shall make a false declaration of the amount of his goods to the officer executing the warrant or conceal from such officer any of his property shall on conviction be imprisoned for not less than one day and not exceeding three (3) months. The following goods are liable to seizure and sale:—Tables beds chairs house furniture and all kinds of kitchen utensils clothing *gatu* (except clothing sufficient for each member of the family) boxes animals horses carts yams Tongan produce and articles of food (except growing crops). The following articles are not liable to seizure and sale:—Houses fixtures clothing sufficient for each member of the family and growing crops.

Penalty for concealment.

Chattels exempt from distraint.

SCHEDULES.

TABLE OF FEES.

SUPREME COURT—			
Criminal	None		
Civil	$30	0	0
Subpœna	0	1	0
Appeal from the Police Court	10	0	0
Divorce	100	0	0
Probate—			
Estate exceeding $25 in value	5	0	0
Estate under $25 in value	2	0	0
POLICE COURT—			
Civil or Criminal—			
Summons	0	3	0
Subpœna	0	1	0
GENERAL—			
Warrant to destrain	1	0	0
Copy of evidence—per folio of 72 words	0	1	0
Copy of judgment or conviction	0	1	0
Service of summons and subpœna by police	0	1	0

[TRANSLATION.]

1.

SUMMONS TO ACCUSED.

No. POLICE COURT, DISTRICT OF

To of

Information having been laid before me that you did , I hereby command you in the King's name to appear before me at the Police Court at on the day of to be further dealt with according to law.

Witness my hand this day of 189

Police Magistrate.

If you fail to obey this summons a warrant will be issued for your arrest.

2.

WARRANT OF ARREST.

No. COURT, OF THE DISTRICT OF

To all Police officers within the Kingdom of Tonga.

I hereby command you to arrest of and to keep him in custody and to bring him before me at the next sitting of the Court there to answer the charge that he did [*Insert here the offence with which he is charged*].

Witness my hand this day of 189

Justice [or Police Magistrate].

3.

SUMMONS.

No. COURT, CIVIL JURISDICTION, DISTRICT OF

In the suit between Plaintiff, and Defendant.

To of

Whereas has instituted a suit against you and claims the sum of $, I command you in the King's name to appear in person or by your representative in the Court-house at on the day of when the suit will be decided according to law.

Witness my hand this day of 189

Justice [or Police Magistrate].

4.

SUMMONS TO WITNESS.

No. COURT, DISTRICT OF

To of

You are hereby commanded in the King's name to appear and give evidence before the Court to be held on at in the matter concerning that he did [*Here insert the charge or ground of civil action*].

Witness my hand this day of 189

Justice [or Police Magistrate].

5.

ORDER FOR PAYMENT OF MONEY.

No. COURT, DISTRICT OF

189

To of

Take notice that you are indebted to the Government of Tonga in accordance with the decision given in case No. on the 189 as follows:

Fine or forfeiture ... $
Costs ... . $

$

And unless this sum be paid within fourteen days from the date of trial you will be

Clerk of the Court.

6.

WARRANT OF IMPRISONMENT.

No. COURT, DISTRICT OF

To Chief Gaoler of the District of

I hereby command that of be (imprisoned with hard labour / imprisoned) for that he did and that he be (imprisoned with hard labour / imprisoned) for

Justice [or Police Magistrate].

Date

7.

WARRANT OF IMPRISONMENT IN DEFAULT OF A PENALTY.

No. COURT, DISTRICT OF

189

To Chief Gaoler of the district of

Whereas of was adjudged to pay $ and whereas he has failed to pay the said sum I hereby command that he be (imprisoned with hard labour / imprisoned) for unless the said sum be sooner paid. And if the said should pay any part of the said sum you shall set him at liberty when he shall have completed a proportion of his sentence equal to the proportion of his fine which shall be still unpaid.

(See Section 230 of the Code.)

Justice [or Police Magistrate].

8.

WARRANT TO DISTRAIN.

No. DISTRICT OF

189

No. of Case. To Inspector of Police.

You are hereby directed to sell by public auction the goods of at the village of to satisfy a judgment of $

Judgment ... ...
Costs ... ...
Fee for Distress Warrant ...

$

Justice [or Police Magistrate].

Clerk

9.

SEARCH WARRANT.

No.

To Inspector of Police.

Whereas has made sworn declaration before me that certain (suspected to be stolen / prohibited by law) is/are concealed on the premises of of , I command you in the King's name or your representative to search for the said articles on the said premises and to bring the said articles before me if you shall find them.

Witness my hand this day of 189

Police Magistrate.

Chapter V.

OF PUNISHMENTS.

221. The following are the punishments that may be lawfully inflicted for breaches of the law: 1. Death 2. Imprisonment with hard labour. 3. Imprisonment. 4. Whipping. 5. Fine.

Punishments.

222. Death: Sentence of death shall be carried out in the district in which the person sentenced was convicted and no sentence of death shall be executed excepting upon a warrant signed by the King but it shall be lawful for the King with the consent of the Privy Council to commute a sentence of death to imprisonment for life.

Death.

223. Imprisonment with hard labour: Persons so sentenced shall be confined in prison during the night and shall work for the Government during the day under the control of a gaoler or public officer.

Penal servitude.

224. Simple Imprisonment: Persons so sentenced shall be confined both day and night in the gaol without labour.

Imprisonment

225. Whipping: Prisoners shall be whipped by the Chief Gaoler or his subordinate in the presence of a Magistrate in the precincts of the gaol with a cat-of-nine-tails of the pattern approved by the Cabinet upon the buttocks but no person shall receive more than twenty-five lashes on any one day.

Whipping.

226. Fines: Fines are of two kinds:—(1.) Fines leviable by distress. (2.) Fines in default of payment for which imprisonment or imprisonment with hard labour are the alternatives.

Fines.

227. Fourteen days from the date of judgment without counting Sundays shall be allowed to any person sentenced to pay a fine to enable him to pay such fine before distress or imprisonment are inflicted.

Fourteen days grace.

228. Should any person undergo imprisonment in default of payment of a fine his time shall be counted from the day on which his imprisonment commenced.

How reckoned

Explanation.—A is sentenced to pay a fine of fifty dollars, or six months' imprisonment with hard labour in default, fourteen days being allowed him, and failing to pay he is imprisoned. His sentence of six months will be counted from the day his imprisonment commenced, and not from the day of his conviction.

229. Should any person be imprisoned in default of payment of a fine he shall be set at liberty upon paying his fine in full.

Payment of fine.

230. Should any person be imprisoned in default of payment of a fine and he pay part of his fine he shall be set at liberty when the proportion of the imprisonment he has undergone is equal to the proportion of the fine he has failed to pay.

Proportiona sentence.

Explanation.—1. A was sentenced to pay a fine of forty dollars or four months' imprisonment in default. He paid ten dollars. He should therefore be set at liberty at the end of three months which is in the same proportion to four months as the thirty dollars he failed to pay is to his fine of forty dollars.

2. B was sentenced to pay a fine of twenty-five dollars or two months' imprisonment in default. He pays three dollars and will be set at liberty at the end of fifty-three days that being in the same proportion to two months as the twenty-two dollars he failed to pay is to his original fine.

Chapter VI.

THE INTERPRETATION OF THE LAWS.

Laws come into force.

231. No Act passed by the Legislative Assembly of this Kingdom and which has received the King's Assent (excepting Acts relating to Custom Dues) shall become law until it has been published in the Government Gazette or posted on the Notice Board of the Police Court of the District.

Promulgation of Ordinances.

232. The Privy Council may direct that any Ordinance passed by the King in Council shall be promulgated either by printing in the Native Newspaper or in the Government Gazette or in an official notice or according to the native custom of *fanogonogo* (by the public crier) or by holding a *fono* and publicly reading such Ordinance.

Premier to circulate laws etc.

233. It shall be the duty of the Premier to furnish a copy of all laws immediately after they have been gazetted or published to each of the Executive Ministers Governors Justices Magistrates and Inspectors of Police.

No law to be retrospective

234. No law shall have any retrospective operation.

Law stronger than agreements.

235. No agreement shall nullify the action of the law.

Words inclusive.

236. The singular shall include the plural and the masculine shall include the feminine.

Definition of words.

237. The words "person" "persons" "anyone" "whoever" "another" shall signify not only one individual but the inhabitants of a village or district when such construction appears to be the meaning of the law.

Year and month.

238. The word "month" shall mean a calendar month and the word "year" a calendar year.

Oaths.

239. The word "oath" shall include an affirmation by a member of the Society of Friends or a Chinaman or any person not a Christian.

Gazette.

240. "Gazette" shall mean the Government official publication.

Dollar.

241. The word "dollar" shall mean the sum of four shillings in English money or its equivalent in German or United States coin in accordance with Royal Proclamation of December 1888.

Foreigners.

242. "Foreigner" shall mean all who are not subjects of His Majesty.

District.

243. "District" shall mean any division of the Kingdom which may be defined in any Act or Ordinance.

Repeal not to revive.

244. The repeal of a law shall not re-enact any law which has been repealed unless it is distinctly provided that such law be re-enacted.

245. A law may be repealed entirely or in part by direct provision or by implication. The repeal is by direct provision when expressly declared: it is implied when a new law contains provisions irreconcilable with an existing law.

Repeal declared or implied.

246. The repeal of a law shall not affect any act done nor suit instituted by authority of such law before it was repealed.

Repeal not retrospective.

247. The repeal of a law shall not affect any punishment inflicted nor judgment for money pronounced nor order made by the authority of such law before it was repealed.

Repeal not retrospective.

248. Offences shall be divided into treason felonies and misdemeanours.

Offences classed.

249. The following offences are declared to be felonies by the Constitution and Law of Tonga:—

Felonies.

1. Sedition.
2. Culpable Homicide.
3. Assault with intent to do grievous bodily harm.
4. Rape and Unnatural Offences.
5. Procuring Abortion.
6. Housebreaking.
7. Larceny (of property exceeding $25 in value)
8. Bribery.
9. Perjury.
10. Forgery.
11. Embezzlement.
12. Arson.
13. Bigamy.
14. Wilful Destruction to Property exceeding $100 in value.

250. The punishments for treason and for felony shall be classed as follows:—

Punishment for treason and felonies.

1. Treason—Capital punishment with confiscation.
2. Felony—
   (*a*) Wilful Murder. Capital punishment without confiscation.
   (*b*) Felonies other than Murder. Any person who shall be sentenced to two years' imprisonment or more for felony shall not forfeit his property but shall be deprived of his rights as a citizen and cannot hold an appointment in the Public Service nor a position of remuneration or honour nor vote for the Representatives to the Legislative Assembly nor serve on a jury unless pardoned by the King and restored to his rights as a citizen.

251. A misdemeanour is an offence against the law not amounting to a felony nor being a tort but for which the punishment is imprisonment with or without fine or fine only without loss of the rights of citizenship.

Misdemeanours.

252. A crime is a violation of law which affects the welfare of the community; a tort is an infringement of the private rights of individuals.

Definition of crime.

253. It shall be lawful for the Chief Justice to suspend the operation of any law passed by the Legislative Assembly or Privy Council which shall be in contravention of the Constitution until the next meeting of the Legislative Assembly.

Chief Justice may veto laws.

Chapter VII.

CRIMINAL CODE.

OFFENCES AGAINST THE STATE.

TREASON AND SEDITION.

Definition of Treason.

254. Whoever shall levy war or attempt to levy war against the King or the King's Government or attempt to or persuade any Tongan subject to depose or assassinate the King or join in a rebellion against him or attempt to assassinate the heir to the throne shall be guilty of treason.

One witness insufficient.

255. No person shall be found guilty of Treason but on the evidence of two or more persons unless he shall confess his guilt when charged in open Court.

Penalty.

256. Whoever shall be found guilty of Treason shall suffer death by hanging or penal servitude for life and his property shall be forfeit to the State.

(Supreme Court and Jury.)

Penalty for accessory before fact.

257. Whoever being aware of a design to commit Treason shall fail to give information to the Minister of Police or the Governor of the district shall on conviction be imprisoned with hard labour for not less than one (1) year and not exceeding ten (10) years.

(Supreme Court and Jury.)

Foreigners amenable.

258. Foreigners residing in Tonga shall be liable to the penalties herein provided subject to the conditions of any Treaty with any Foreign State.

Slandering the King.

259. Whoever shall slander or libel the King shall on conviction be imprisoned with hard labour for not less than one (1) year and not exceeding ten (10) years.

(Supreme Court and Jury.)

Inciting to sedition.

260. Whoever shall incite any person to resist or break any law of the Kingdom or to refrain from paying the taxes imposed by law shall on conviction be imprisoned with hard labour for not less than one (1) year and not exceeding (5) years.

(Supreme Court and Jury.)

Seditious reports.

261. Whoever shall write or say anything or circulate any paper or report with the design of inducing any person to resist the lawful authority of the King's Government shall on conviction be imprisoned with hard labour for not less than one (1) year and not exceeding ten (10) years.

(Supreme Court and Jury.)

EXPLANATION.—The offences contained in this chapter can only be tried before a Justice and jury. Subjects of States in treaty relations with Tonga cannot be tried for felony before a Tongan Court but are amenable to the jurisdiction of the Consular Court on the complaint of the Tongan Government.

(2.) Justices and Magistrates should note that the words "*o a'u kihe ta'u e hogofulu*" (not exceeding ten years) imply that the judge may inflict any term of imprisonment within the limit of ten years.

Chapter VIII.

OFFENCES AGAINST THE PUBLIC PEACE.

262. Should five (5) or more persons assemble in any place to conspire together to break any law or to resist the lawful authority of the Government it shall be lawful for the Minister of Police or any Governor or Assistant Governor or Mayor to command such assembly to disperse and each person to return to his own home and any person who shall fail to obey immediately the order to disperse may be forthwith arrested by the police and kept in custody until the next sitting of the Court and shall on conviction be imprisoned with hard labour for not less than (1) day and not exceeding three (3) months.

Unlawful assemblies.

(Police Court. Police to prosecute.)

263. Whoever shall obstruct threaten or assault any public servant while discharging his duty in endeavouring to disperse an unlawful assembly shall on conviction be imprisoned with hard labour for not exceeding two (2) years.

Obstructing public servant.

(Police Court. Police to prosecute.)

SEDITIOUS PAPERS.

264. Should any Officer of Customs believe that any package contains papers designed to disturb the public peace it shall be lawful for him to open such package and to deliver to the Premier any such papers that he may find. The Premier shall lay the papers before the Cabinet and if they shall appear to the Cabinet to be papers designed to disturb the public peace it shall be lawful to destroy them.

Seditious papers to be destroyed.

265. Nothing in the last preceding section shall be applied to any paper printed by the authority of any Foreign State.

Government publications excepted.

266. Any Officer of Police who shall have reason to believe that any papers designed to disturb the public peace are concealed in any house or premises he may make an affidavit before a Police Magistrate describing the house or premises in which he believes such papers to be concealed: and the Magistrate shall forthwith issue a search warrant and such Officer of Police may search such house or premises and deliver any such papers that he may find to the Premier who shall read them to the Cabinet in the manner laid down in Section 264. (*See Search Warrant Section 214.*)

Seizure of seditious papers.

267. Whoever shall knowingly import or distribute or receive any paper designed to disturb the public peace shall on conviction be liable to a fine of not exceeding one hundred dollars ($100) or be imprisoned with hard labour for not exceeding six months in default of payment.

Penalty for importing.

(Police Court.)

EXPLANATION.—The burden of proof that he did not know the nature of the papers will rest with the accused.

268. Should two or more persons fight in a public place they shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding fifty dollars ($50) or to imprisonment for not exceeding three months in default of payment or to imprisonment with hard labour for not less than one month and not exceeding three months without the option of a fine.

Fighting in public place.

(Police Court. Police to prosecute.)

EXPLANATION.—This section does not refer to fighting in a private house or room. Public place includes a Government building, or public house, and any premises or enclosure in the town or country to which the public can have access, or can be seen from a road.

NOTE—All offenders against the provisions of this chapter must be prosecuted by the Minister, or an Officer of Police, and no Court fees are payable.

Chapter IX.

OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

Accepting bribe.

269. Whoever being a Public Servant shall accept or attempt to accept any gratification whatever as a motive for doing or abstaining from doing any official act or for showing favour or disfavour to any person shall on conviction be imprisoned with hard labour for not less than one year and not exceeding three years.

(Supreme Court and Jury.)

EXPLANATION.—1. The gratification need not necessarily be money, but may be any kind of service that would put the Public Servant under an obligation to the person rendering it.
2. The Public Servant may not have intended to do or forbear to do the official act. It is sufficient that he tried to obtain the reward,

Offering bribe.

270. Whoever shall offer any gratification whatever to any Public Servant as a motive to induce him to show favour or disfavour to any person shall on conviction be imprisoned with hard labour for not less than one (1) month and not exceeding three (3) years.

(Supreme Court and Jury.)

MISAPPROPRIATION BY PUBLIC SERVANT.

Embezzlement by Public Servant.

271. Whoever being a Public Servant shall appropriate to his own use any money or property entrusted to him in his official capacity whether such money or property belong to the Government or to any private person shall on conviction be imprisoned with hard labour for not less than one (1) year and not exceeding seven (7) years.

(Supreme Court and Jury.)

EXPLANATION—It must be proved that the accused received the money or property, and that he did not pay it to the proper recipient. But this section will not apply if the property was accidentally destroyed by fire, shipwreck, or other accident, while in charge of a Public Servant. The intention to defraud must be shown.

Misappropriation for others.

272. Whoever being a Public Servant shall sell or give to any person not lawfully authorized to receive it any money or property entrusted to him in his official capacity shall on conviction be imprisoned with hard labour for not less than one year and not exceeding three years.

(Supreme Court and Jury.)

EXPLANATION.—A was employed by the Government to receive and weigh the taxeu copra. He weighed B's copra, and then allowed him to remove one bag from the shed. A would be liable under this section.

Giving false receipt.

273. Whoever being a Public Servant shall give a false receipt to any person pretending that he has received on behalf of the Government from such person money or property which he has not received shall on conviction be imprisoned with hard labour for not less than one year and not exceeding five years.

(Supreme Court and Jury.)

EXPLANATION—A, a Tax Collector, gave B, who was his brother, a receipt for his taxes, though B had not paid them in full. A would be liable under this section.

Offender to forfeit salary due.

274. Any Public Servant who shall be convicted of misappropriating property entrusted to him in his official capacity shall forfeit any salary that may be due to him at the time of his conviction and be dismissed from his office.

OBSTRUCTING PUBLIC SERVANTS.

275. Whoever shall intentionally obstruct any Public Servant in the lawful exercise of his duty by limiting his freedom of action shall on conviction be liable to a fine of one dollar ($1) and not exceeding one hundred dollars ($100) or to imprisonment with hard labour for not less than four days and not exceeding six months in default of payment.

Confining public officer.

(Police Court. Public Servant obstructed to prosecute.)

EXPLANATION.—1. A purposely locked up B, a policeman, in his office, and thereby prevented him from serving a summons upon E. A would be liable under this section.

2. A caught hold of B, a policeman, so as to allow E, a prisoner, to escape. A would be liable under this section.

NOTE.—It must be proved that the Public Servant was actually prevented from performing some duty at the proper time.

276. Whoever shall offer any forcible resistance to a Public Servant while lawfully taking possession of any kind of property knowing him to be a Public Servant shall on conviction be liable to a fine of from one dollar ($1) to not exceeding one hundred dollars ($100) and shall be imprisoned for not less than four days and not exceeding three months in default of payment.

Resisting public officer.

(Police Court. Person obstructed to prosecute.)

EXPLANATION.—B, a policeman, proceeded to A's house to execute a warrant of distress. A forcibly resisted the removal of his effects from the house. A would be liable under this section. (*See Section 220.*)

277. Whoever shall use fraud or concealment to prevent a Public Servant from taking any property which he is lawfully authorized to take shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding twenty-five dollars ($25) or to imprisonment with hard labour for not less than four days and not exceeding three months in default of payment.

Unlawful concealment of property.

(Police Court.)

278. Whoever shall neglect to assist a Police Officer in lawfully arresting any person after having been called upon in the King's name to assist such officer shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding one hundred dollars ($100) or to imprisonment with hard labour for not less than four days and not exceeding three months in default of payment.

Neglecting to assist Police.

(Police Court.)

INTIMIDATING PUBLIC SERVANTS.

279. Whoever shall use any threat to any person being a Public Servant whether verbal or in writing with the intention of inducing him to do or to abstain from doing any official act shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding one hundred dollars ($100) or to imprisonment with hard labour for not exceeding two years in default of payment.

Intimidating Public Servant.

(Police Court. Police to prosecute.)

Chapter X.

OFFENCES RELATING TO THE HUMAN BODY.

Culpable Homicide.

Wilful murder.

280. Whoever shall cause the death of any person by doing an act with the intention of causing such bodily injury as is likely to cause death shall on conviction be sentenced to death by hanging or to imprisonment with hard labour for life.

(Supreme Court with Jury.)

Illustration.—B poisons water intending to kill A. E drinks the water and dies. B would be liable under this section since he intended to cause death.

2. A shoots at a fowl not knowing that B is behind a tree in a line with the fowl. The shots kills B. A would not be liable under this section since he did not intend to cause death.

Manslaughter.

281. Whoever by doing an unlawful act shall cause the death of any person though not intending to cause death shall on conviction be imprisoned for not less than one year and not exceeding twenty years.

(Supreme Court with Jury.)

Illustration.—B struck A who was seriously ill at the time. The blow hastened A's death. B would be liable under this section.

2. A and B were horse-racing within the town boundaries, A's horse ran over E and killed him. A and B would both be liable under this section, for though they did not intend to cause E's death, he lost his life owing to their unlawful act.

Culpable neglect.

282. Whoever by neglect shall cause the death of any person although without intention shall on conviction be imprisoned with hard labour for not less than one year and not exceeding seven years.

(Supreme Court with Jury.)

Illustration.—A prescribed remedies for B and made him take a dangerous drug being ignorant of its properties. B died. A would be liable under this section.

2. A removed to another village, leaving B, his wife, dangerously ill and without food. B died from want of proper food and attention. A would be liable under this section.

Homicide with provocation.

283. Notwithstanding the three last preceding sections whoever shall cause the death of any person without premeditation while defending himself from an attack or under grave unlawful provocation or in a sudden fight in the heat of passion shall on conviction be imprisoned with hard labour for any term not exceeding fourteen years.

(Supreme Court with Jury.)

Explanation.—The Justice and Jury must consider how great the provocation really was. The greater the provocation the less ought the punishment to be.

2. A tries to horsewhip B; B, to defend himself, takes up a loaded gun and shoots A. B would not be sentenced to death, but would be liable under this section.

3. A, a policeman, lawfully arrests B. B excited to violent anger by the arrest, kills A. B would be liable to the death penalty, because the provocation was given by a Public Servant in the lawful exercise of his duty.

Attempted Suicide.

2. Whoever shall attempt to cause his own death shall on conviction be imprisoned with hard labour for six months.

(Police Court.)

Procuring Abortion.

Procuring Abortion.

284. Whoever shall give any drug to or commit any act upon a woman with the intention of causing her to miscarry shall on conviction be imprisoned with hard labour for any term not less than one year and not exceeding ten years.

(Supreme Court with Jury.)

285. Should ny woman procure her own miscarriage or take any drug with the intention of procuring her miscarriage although miscarriage may not have resulted she shall on conviction be imprisoned with hard labour for any term not less than one year and not exceeding five years.

Penalty for woman pro curing abor tion.

(Supreme Court with Jury.)

EXPLANATION.—It is immaterial whether miscarriage resulted or not. It is sufficient that the woman intended to procure miscarriage.

286. Should any woman give birth to a child and conceal the fact of the birth whether the child was born living or dead or whether it was legitimate or not she shall on conviction be imprisoned with hard labour for any term not less than one month and not exceeding two years.

Concealment of birth.

(Police Court.)

287. Whoever shall commit any act upon a woman with the intention of causing her to miscarry and shall thereby cause the death of such woman shall on conviction be imprisoned with hard labour for any term not less than one year and not exceeding twenty years. *(Compare Section 281.)*

Penalty if death ensues.

RAPE AND UNNATURAL OFFENCES.

288. Whoever shall commit rape upon any female shall on conviction be imprisoned with hard labour for any term not less than one year and not exceeding twenty years.

Rape.

(Supreme Court with Jury.)

289. The following offences shall be held to constitute rape :—

Rape defined.

1. Carnal intercourse with a female by force.
2. Carnal intercourse with a female without her consent (that is while she is asleep or intoxicated or otherwise unconscious).
3. Carnal intercourse with a female while she is in fear of death or serious injury unless she consent.
4. Carnal intercourse with a female with her consent given in the belief that the perpetrator is her husband.
5. Carnal intercourse with a female less than ten years of age.

290. Whoever shall have carnal intercourse by force with a female to whom he has been lawfully married shall not be deemed to have committed rape.

Intercourse with wife not rape.

291. Whoever shall attempt to have carnal intercourse with any female less than ten years of age shall on conviction be imprisoned with hard labour for any term not less than one year and not exceeding seven years.

Attempted rape.

292. Criminal outrage *(tooki)* shall be defined as carnal intercourse with a female by force without her consent by more than one person and criminal outrage upon a female less than ten years of age shall be held to have been committed without her consent.

Criminal outrage defined.

293. Whoever shall participate in the commission of a criminal outrage upon a female shall on conviction be imprisoned with hard labour for life.

Penalty.

(Supreme Court with Jury.)

294. Should any persons combine in committing a criminal outrage upon a female and such female consent to the commission of the outrage both the persons who committed the outrage and the female

Penalty if female consents.

who consented shall on conviction be imprisoned with hard labour for any term not less than one year and not exceeding seven years.

(Supreme Court with Jury.)

Abduction

295. Whoever shall abduct any female against her will with the intention of marrying her or of seducing her shall on conviction be imprisoned with hard labour for any term not less than one year and not exceeding seven years.

(Supreme Court with Jury.)

Women's evidence must be corroborated.

296. The evidence of any female alleged to have been forcibly outraged or abducted shall be admissible: Provided that no person shall be convicted of such offence upon the sole testimony of such female without corroborative evidence.

UNNATURAL OFFENCES.

Incest.

297. Whoever shall have carnal intercourse with his grandmother mother aunt sister daughter or niece shall on conviction be imprisoned with hard labour for life.

(Supreme Court with Jury.)

Incest.

298. Should any female have carnal intercourse with her grandfather father uncle brother son or nephew shall on conviction be imprisoned with hard labour for life.

(Supreme Court with Jury.)

Sodomy.

299. Whoever shall commit sodomy with any male person shall on conviction be imprisoned with hard labour for life.

EXPLANATION.—Should the person on whom the offence was committed be a boy of less than ten years of age the act shall be held to have been done without his consent, but above that age he would be liable to the penalty of this section.

Beastiality

300. Whoever shall have carnal intercourse with any beast shall on conviction be imprisoned with hard labour for life and such beast shall be killed by a Public Officer.

(Supreme Court with Jury.)

ASSAULT AND BATTERY.

GRIEVOUS HURT.

Grievous hurt defined.

301. The following injuries shall be held to constitute Grievous Hurt:—

1. Permanent privation of the use of eye or ear.
2. Permanent impairing of a member or joint.
3. Fracture of a bone.
4. Permanent disfiguration of the head or face.
5. Injury which endangers life or which prevents the injured person from following his pursuits for twenty days.

Grievous hurt with intent.

302. Whoever shall wilfully cause grievous hurt to any person by means of any instrument for shooting stabbing or cutting or any instrument likely to cause death or any poison shall on conviction be imprisoned with hard labour for any term not less than one month and not exceeding ten years and shall pay to the injured person damages to the amount assessed by the Jury to be levied by distress.

(Supreme Court with Jury.)

Malicious injury.

303. Whoever shall do any act with malicious intent and thereby cause bodily injury to any person shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding two hundred dollars

($200) or to imprisonment with hard labour for any term not less than one month and not exceeding twelve months.

EXPLANATION.—It must be proved that the act was committed with malicious intention. If the injury was accidental, and resulted from an act done without the knowledge that injury would be caused, the accused must be acquitted.

ILLUSTRATION.—A tethered his horse in the road at night, and B, riding in the dark, was thrown from his horse by the tether rope and injured. A would be liable to not exceeding half the penalty under this Section, for though he did not intend to injure B, yet he was breaking the law in tethering his horse in the road, and B's injuries resulted from A's breach of law. (*Compare Section 213.*)

2. A dug a hole upon his premises to plant a house-post, and B fell into the hole in the dark and was injured. A would not be liable under this Section for he did not intend to injure B, and he was infringing no law in digging the hole, but B might sue A in the Civil Court for damages.

304. Whoever shall cause another to take any stupefying or unwholesome drug with intent to cause hurt or with intent to commit any offence shall on conviction be imprisoned with hard labour for any term not less than one month and not exceeding ten years. *Unlawful use of drugs.*

(Supreme Court with Jury.)

ILLUSTRATION.—A made B intoxicated in order to have carnal intercourse with her, but did not accomplish his purpose. A would be liable under this Section. If he had had sexual intercourse with B while she was intoxicated he would have been guilty of rape under Section 288.

305. Whoever shall assault any person with the intention of stealing anything from him shall on conviction be imprisoned with hard labour for any term not less than two years and not exceeding five years and may in addition be sentenced to a whipping of not exceeding twenty-five lashes at the discretion of the Court. *Robbery with violence.*

(Supreme Court with Jury.)

306. Whoever shall commit *tolo** with the intention of injuring another whether he injures any person or not shall on conviction be imprisoned with hard labour for any term not less than one month and not exceeding two years and may in addition be sentenced to a whipping of not exceeding twenty-five lashes at the discretion of the Court. *Assault by tolo.*

(Police Court.)

UNLAWFUL RESTRAINT.

307. Whoever shall unlawfully seize or obstruct any person shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding twenty-five dollars ($25) or be imprisoned with hard labour for any term not less than four days and not exceeding three months in default of payment. *Wrongful restraint.*

(Police Court.)

EXPLANATION.—The following are examples of unlawful restraint:—

1. To stop a horse or carriage or boat on which another is travelling.
2. To lock up another in a house or room.
3. To threaten another with violence if he proceeds on his way.
4. To push or hustle another off a path.
5. To fasten a door or gate through which another has to pass.

PETTY ASSAULT.

308. Whoever shall do to another any of the acts herein specified in anger or in malice and without grave provocation shall on conviction be liable to a fine of not less than one shilling (1/-) and not exceeding fifty dollars ($50) or to imprisonment with or without hard labour for any term not less than one day and not exceeding three months. *Petty assault.*

1. Striking with the hand.
2. Assaulting so as to draw blood.
3. Spitting on or throwing liquid on another.
4. Setting a dog on another.

* *Tolo* consists in throwing a heavy missile at an obnoxious person in the dark. The offence is common in Tonga and detection is extremely difficult.—Translator.

5. Pushing another.
6. Seizing or tearing the clothes of another.

(Police Court. Injured party to prosecute. Fees payable.)

EXPLANATION.—The Court must take into consideration the provocation given to the defendant. Grave provocation should mitigate the penalty. If the accused committed the act in defending himself from an assault he should be acquitted, but this would not apply to the case of an assault upon a Public Officer lawfully exercising his duty in effecting an arrest or executing a warrant to distrain or a similar duty.

Threatened assault.

309. Whoever shall make any gesture or preparation to commit an assault shall on conviction be liable to a fine of not less than one shilling (1/-) and not exceeding fifteen dollars ($15) or be imprisoned with or without hard labour for any term not less than one day and not exceeding one month in default of payment.

(Police Court. Injured party to prosecute.)

Indecent gestures, etc.

310. Whoever shall do any act to outrage the modesty of any female shall on conviction be imprisoned with or without hard labour for any term not less than one month and not exceeding six months.

(Police Court. Injured woman to prosecute. Fees payable.)

ABDUCTION.

Abduction of minor.

311. Whoever shall entice any boy or girl less than sixteen (16) years of age to leave the custody of his or her parents or guardian without the consent of such parents or guardian shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding one hundred dollars ($100) or be imprisoned with hard labour for not less than one day and not exceeding six months in default of payment.

(Police Court. Guardian to prosecute. Fees payable.)

EXPLANATION.—The word "guardian" means the person who should have the custody of the child by law or some person properly appointed by the lawful guardian to have custody of the child.

Abduction of married woman.

312. Whoever shall entice any married woman to desert her husband shall on conviction be liable to a fine of not less than ten dollars ($10) and not exceeding ($100) or be imprisoned with hard labour for not less than one month and not exceeding six months.

(Police Court. Husband to prosecute. Fees payable.)

Chapter XI.

OFFENCES RELATING TO PROPERTY.

LARCENY.

Definition of theft.

313. Theft is defined as the taking any moveable property dishonestly from the possession of its owner.

EXPLANATION.—It is not theft to take a thing one believes *bona fide* to be one's own, nor can one commit theft without moving the property.

1. A sold a house honestly believing it to be his own but the house in reality belonged to B. A cannot be sued for theft; he did not remove the house, but B might sue A in the Civil Court to recover possession of his house or its equivalent in money.
2. A bought some growing yams from B which really belonged to E. A was not guilty of theft but B would be liable for obtaining money under false pretences. But if A had known that the yams did not belong to B and they two had removed the yams they would both have been guilty of theft. (*Compare Section 311.*)

314. Whoever shall commit theft shall on conviction be imprisoned with hard labour for a term in proportion to the value of the property stolen as follows:— Penalty for theft.

1. For theft of property one hundred dollars ($100) in value or more imprisonment with hard labour for not less than two years and not exceeding seven years.
   (Supreme Court with Jury.)
2. For theft of property less than one hundred dollars ($100) and more than twenty-five dollars ($25) in value imprisonment with hard labour for not less than one year and not exceeding three years.
   (Supreme Court with Jury.)
3. For theft of property twenty-five dollars ($25) in value or less imprisonment with hard labour for not less than one month and not exceeding six months: Provided that this Section shall not apply to theft of tether ropes.
   (Police Court. Police to prosecute. No fees payable.)

315. Should any male person be twice convicted of theft it shall be lawful for the Court to order him to receive a whipping of not exceeding twenty-five lashes provided that such person shall undergo the full term of imprisonment to which he was sentenced for theft notwithstanding the whipping inflicted. Habitual thief may be whipped.

316. Whoever shall take anything belonging to his relation without the permission of its owner according to the native custom or shall obtain goods from any store and have them charged to his relation without the consent of such relation shall on conviction be liable to the penalty provided for theft. Taking property without leave is theft.

317. Whoever shall steal any rope with which any animal is tethered shall on conviction be imprisoned with hard labour for any term not exceeding twelve months. Theft of tether ropes.

(Police Court.)

318. Should any person be convicted of theft the Court may order him to pay to the owner of the stolen property its equivalent in money to be recovered by distress. Provided that the owner of such stolen property shall first make affidavit before a magistrate setting forth the stolen articles in detail and the price paid for each article. But should any stolen property be recovered it shall be returned to its rightful owner upon the production of proof of ownership. Thief to pay value of stolen goods.

319. Whoever shall receive any stolen property knowing it to be stolen shall be held equally guilty with the person who stole such property. Receiver of stolen goods.

House Breaking.

320. Whoever shall break into any house the property of another by breaking or undoing any lock or fastening or by breaking through a wall or floor with intent to commit theft or any felony whether he commits any felony or not shall on conviction be imprisoned with hard labour for any term not less than one year and not exceeding four years. House Breaking.

(Supreme Court with Jury.)

Explanation.—To constitute the offence of house-breaking some fastening must have been broken or untied. To enter a house by a door of hanging cocoanut leaves or an unlocked door is not house-breaking, but trespass. But to unfasten a cocoanut leaf door which has been tied down, or to unlock a door with a key, or to unlatch a window would be house-breaking.

EXTORTION.

Extorting money.

321. Whoever shall use any threat towards another with the intention of inducing such person through fear to deliver to him any money or property shall on conviction be imprisoned with hard labour for not less than three months and not exceeding three years.

(Supreme Court with Jury.)

ILLUSTRATION.—A attempts to borrow money from B, and on being refused threatens to accuse B of adultery; A would be liable under this Section.

Lost property, how dealt with.

322. Whoever shall find any lost property shall if he knows who is the owner of such property at once deliver it to such owner but if the owner be unknown he shall deliver such property to the mayor of the village in which he resides and the mayor shall cause such property to be proclaimed by the crier and at the expiration of fourteen days from the date such property was proclaimed if the owner be not known it shall become the property of the person who found it.

Finder to receive one-fourth of value.

323. Should any person produce proof that any lost property belongs to him he shall pay to the finder of such property one-fourth ($\frac{1}{4}$) of its value.

Penalty for concealing lost property.

324. Whoever shall conceal any property which he has found in the bush or any place or infringe any of the provisions of Section 322 shall on conviction be liable to a fine of five dollars ($5) or be imprisoned with or without hard labour for one month in default of payment.

(Police Court.)

ARSON.

Arson.

325. Whoever shall wilfully set fire to any building or vessel or receptacle for property or provisions shall on conviction be imprisoned with hard labour for any term not less than six months and not exceeding ten years: and the Court may further order him to pay to the owner a sum equivalent to the value of the property destroyed to be levied by distress.

(Supreme Court with Jury.)

Attempted Arson.

326. Whoever shall attempt to set fire to any building or vessel or stack or receptacle for property shall on conviction be imprisoned with hard labour for any term not less than one month and not exceeding ten years.

(Supreme Court with Jury.)

Bush fires.

327. Whoever shall by negligence or design set fire to any plantation or bush by which cocoanuts fruit trees or cultivated plants are damaged shall on conviction be imprisoned with hard labour for any term not less than one day and not exceeding one year and shall pay to the owner of the property destroyed a sum equivalent to its value as assessed by the Court to be levied by distress.

(Police Court. Owner of destroyed property to prosecute.)

Bush fires arising from negligence.

328. Should any person send a child to fetch a fire brand in a village or in the bush and should any property be destroyed by fire arising from sparks carelessly dropped by such child such person shall pay to the owner a sum equivalent to the value of the property so destroyed as assessed by the Court to be levied by distress.

(Police Court. Civil Jurisdiction.)

CRIMINAL MISAPPROPRIATION.

Embezzlement by clerk.

329. Whoever being a clerk or servant entrusted with money or property who shall dishonestly convert to his own use such money

or property shall on conviction be imprisoned with hard labour for any term not less than one year and not exceeding five years but this section shall not apply to public servants.

(Supreme Court with Jury.)

330. Whoever being employed by another as agent and being entrusted with money or property who shall dishonestly convert to his own use such money or property or who shall dishonestly use his employer's name to obtain goods from any store without being authorised by his employer shall on conviction be imprisoned with hard labour for any term not less than six months and not exceeding five years.

Embezzlement by agent.

(Supreme Court with Jury.)

ILLUSTRATION.—A is employed by B. a European, to bring daily supplies from a certain store. A obtains 10lbs. of sugar, telling the storekeeper to charge it to B, and appropriates 5lbs. for himself. A would be liable under this Section.

2. A, an agent, undertakes to sell B's copra abroad, and receives forty dollars as the proceeds of the copra. He gives B only thirty dollars, assuring him that this was all he received. A would be liable under this Section.

CHEATING.

331. Whoever shall dishonestly obtain from another any property or money by a false representation shall on conviction be imprisoned with hard labour for any term not less than one month and not exceeding two years provided that nothing in this section shall apply to goods supplied by a European to a native on credit.

Cheating.

(Police Court. Person cheated to prosecute.)

EXPLANATION.—It is provided in Section 182 that no European can sue a Tongan for debt, and that if a European supplies goods to a Tongan on credit the Courts will not assist him to recover the debt.

2. A, a native, applies to B, a European, for a tin of biscuits, falsely stating that he is sent by E, and B gives him the biscuits out of friendship for E; A would be liable under this Section for dishonesty, whether E was a native or European.

3. A, a native, brings a bag of copra to B, a European, for sale, stating that he has at home five bags of copra of the same quality as the sample bag. B pays him for six bags, but when the remaining five bags are brought they are found to contain worthless copra, the sample bag being alone of good quality; A would be liable under this Section.

4. A, a native, applies to B, a native, for four dollars ($4), falsely promising to bring B a pig; A would be liable under this Section.

5. If A had possessed the pig and had really intended to give it to B at the time but had afterwards changed his mind, A would not be guilty of cheating; but B might sue A before the Civil Court for breach of agreement and recover the four dollars and costs.

332. Whoever shall obtain from another any property money or document by falsely representing himself to be the person entitled to receive such property money or document shall on conviction be imprisoned with hard labour for any term not less than one month and not exceeding two years.

Cheating by impersonation.

(Police Court.)

ILLUSTRATION.—A, a woman, falsely represents herself to be B's wife, and E believing her gives her money which he owes to B; A would be liable under this Section.

333. Whoever shall adulterate any food or produce with any foreign substance so as to increase the weight of such food or produce shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding one hundred dollars ($100) or be imprisoned with or without hard labour for any term not less than one day and not exceeding two years in default of payment.

Adulteration of food, &c.

(Police Court. Injured person to prosecute.)

ILLUSTRATION.—A put a stone into a bag of copra to increase its weight. He would be liable under this Section.

2. A put water into a bottle of milk, and sold it to B as pure milk. A would be liable under this Section.

WEIGHTS AND MEASURES.

334. Whoever shall fraudulently use any false weight or balance or false measure of length or capacity shall on conviction be liable to

False weights

a fine of not less than one dollar ($1) and not exceeding one hundred dollars ($100) or be imprisoned with or without hard labour for any term not less than seven days and not exceeding two years in default of payment.

(Police Court. Police to prosecute.)

335. Whoever shall have in his possession or care any false weight or measure intending to use such false weight or measure shall on conviction be liable to the penalty provided in the last preceding Section.

(Police Court. Police to prosecute.)

Inspection of weights and measures.

336. The British standard weights and measures shall be the standard weights and measures of the Kingdom. The Minister of Police shall have power to appoint any person in writing to visit and inspect at any time all the weights and measures employed by merchants and Public Servants and whoever shall hinder such officer from inspecting any weight or measure shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding twenty-five dollars ($25) or be imprisoned with or without hard labour for any term not less than four days and not exceeding one month.

(Police Court. Police to prosecute.)

Destruction of Property.

Penalty for wilful damage

337. Whoever shall wilfully destroy or damage any property animal or plantation excepting by process of law shall on conviction pay to the owner the value of the property damaged as assessed by the Court and may be further imprisoned with hard labour for any term not less than one day and not exceeding seven years.

(Police Court. Owner of property to prosecute if the damage done is less than $100 in value, but if the damage exceeds $100 in value the case will be tried before Supreme Court with Jury.)

Accidental damage.

338. Whoever shall unintentionally damage or destroy any property animal or plantation may be sued before the Civil Court by the owner of such property animal or plantation and may be ordered by the Court to pay compensation to such owner together with the costs of the suit to be levied by distress.

(Police Court. Civil Jurisdiction.)

339. Whoever shall move or damage any land-mark fixed by a Public Servant by the authority of the Minister of Lands shall on conviction be imprisoned with or without hard labour for any term not less than one day and not exceeding one year.

(Police Court. Police to prosecute.)

ANIMALS.

Cattle.

Cattle damaging property.

340. Should any horned cattle damage any property or plantation the owner of such cattle may be sued before the Civil Court and the Court may order him to pay to the owner of such property a sum equivant to the value of the property destroyed to be levied by distress.

(Police Court.)

Cattle at large to be fenced.

341. Should any cattle be at large and destroy any property or plantation the Inspector of Police of the district shall give notice to the owner of such cattle that he must enclose them forthwith within a fence or otherwise secure them and if the owner disregard such notice

the Inspector of Police may prosecute him before the Police Court for disregarding the notice to fence or secure such cattle. (*Section 342.*)

(Police Court. Inspector of Police to prosecute.)

EXPLANATION.—The Inspector must produce evidence that the cattle are at large and likely to destroy property or plantations.

342. Should it appear to the satisfaction of the Magistrate that the cattle are at large and likely to destroy plantations or property he may make an order against the owner of such cattle to fence or secure the cattle as follows :—

Court to issue fencing order.

ORDER TO FENCE CATTLE.

To of

Whereas it has been shown that certain cattle belonging to you are at large, I hereby require you to enclose such cattle within a fence, or otherwise secure them before the expiration of twenty-one days from the date of this order. If you fail to obey this order, such cattle will be at once destroyed.

Police Magistrate.

Date

343. At the expiration of twenty one days from the issue of the fencing order if such cattle still remain at large the Magistrate shall make an order as provided in this Section and it shall thereafter be lawful for the Inspector of Police or his representative to destroy the cattle to which such order refers and before the expiration of two days he shall inform the owner of their destruction that such owner may have the disposal of the carcases.

Destroying order.

ORDER TO DESTROY CATTLE.

To Inspector of Police.

I hereby authorise you to destroy forthwith the cattle belonging to of in respect of which I have made an order to fence or secure but which are still at large. You will forthwith destroy the said cattle and inform the owner of their destruction.

Police Magistrate.

Date

HORSES.

344. Whoever shall tether any horse or cattle in a Public road shall on conviction be liable to a fine of not less than one shilling (1s.) and not exceeding two dollars ($2) to be levied by distress. *(Compare Section 213.)*

Tethering in road forbidden.

(Police Court. Police to prosecute.)

345. Whoever shall ride or use the horse of another without obtaining the consent of the owner of such horse shall on conviction be liable to a fine of not less than one shilling (1s.) and not exceeding five dollars ($5) or be imprisoned with hard labour for any term not less than one day and not exceeding fourteen days in default of payment.

Taking horse without leave.

(Police Court. Owner of horse to prosecute.)

346. Whoever shall ride furiously within the boundaries of any village shall on conviction be liable to a fine of not less than one shilling (1s.) and not exceeding five dollars ($5) or be imprisoned with or without hard labour for any term not less than one day and not exceeding one month in default of payment.

Furious riding

(Police Court. Police to prosecute.)

347. Whoever shall use any horse suffering from sore back sore shoulder girth galls or lameness or shall cruelly ill-use any animal shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding twenty-five dollars ($25) or be imprisoned with hard labour for any term not less than one day and not exceeding two months in default of payment.

Cruelty to animals.

(Police Court. Police to prosecute.

Releasing tethered animals.

348. Whoever shall unfasten the rope by which any animal owned by another is tethered or shall release any animal owned by another from a fence shall on conviction be liable to a fine of not less than one shilling (1s.) and not exceeding one dollar ($1) and shall also pay compensation for any damage done by the animal so set at liberty and the pound expenses if such animal be impounded while at liberty and such sums shall be levied by distress.

(Police Court. wner of animal to prosecute.)

Allowing stallion to cover.

349. Whoever shall permit a stallion to cover within the boundaries of any village shall on conviction be liable to a fine of not less than one shilling ($1) and not exceeding two dollars ($2) to be levied by distress.

(Police Court. Police to prosecute.)

DOGS.

Dangerous dogs.

350. Should any person be injured by the bite of a dog or by any dog having chased the horse which such person was riding or driving the owner of such dog shall on conviction be liable to a fine of not less than one shilling (1s.) and not exceeding five dollars ($5) to be levied by distress.

(Police Court. Police to prosecute.)

PIGS.

Local regulations.

351. It shall be lawful for each village to make regulations regarding pigs provided that such regulations do not conflict with the law.

Owner of pig to pay for damage.

352. The owner of any pig which has damaged the property of another shall on conviction pay compensation for all damage done by such pig together with costs to be levied by distress.

(Police Court. Owner of damaged property to prosecute.)

Pig trespassing may be killed.

353. If any person shall twice suffer damage from any pig owned by another and twice inform the owner and if such pig shall again damage his property he may kill the pig and immediately inform the owner but such person may not eat the pig without the owner's permission.

If killed unlawfully owner may recover value.

354. Whoever shall kill any pig owned by another without first warning such owner twice that his pig has done damage in accordance with the last preceding Section shall on conviction pay to the owner money or property equivalent to the value of the pig together with the costs and such amounts shall be levied by distress.

(Police Court. Owner of pig to prosecute.)

Killing secretly is theft.

355. Whoever shall kill and eat any pig owned by another without informing the owner shall be liable to the penalty for theft under Section 314.

(Police Court. Owner of pig to prosecute.)

POUNDS.

Pounds-where situated.

356. There shall be Public Pounds in the following villages:— Nukualofa and Mua in Tongatabu Pagai in Haapai Neiafu in Vavua Hihifo in Niuatobutabu Agaha in Niuafoou and in any other place which the Minister of Police with the consent of the Cabinet may appoint.

Loose animals may be impounded.

357. Any horse cattle ass sheep or goat found wandering in any path or village square or public road or unenclosed land in Nukualofa Mua Pagai Neiafu Hihifo or Agaha may be impounded by a Public Servant and in any village where Regulations respecting pigs

have been made pigs may be impounded in accordance with such Regulations.

358. Should any of the animals enumerated in Section 360 trespass on the premises or land of any person the owner of such premises or land may inform any Police Officer Gaoler Mayor or Village Officer who shall at once impound such animal but such officers only shall have power to impound animals.

Animals trespassing may be impounded.

359. The pound-keeper shall be responsible for feeding all animals in the pound and shall receive all pound fees and the owner of any animal impounded shall pay to such pound-keeper sixpence (6d.) for every day except the first during which such animal has been in the pound together with the pound fees before such animal is released.

Owner of animals to pay maintenance.

360. Pound fees shall be payable as follows :—

Fees.

	$	s.	d.
Horses each	1	0	0
Cattle or asses each	1	0	0
Sheep goats or pigs each ...	0	2	0

361. After any animal has been impounded for five days the pound-keeper shall send notice to the owner of such animal or if the owner be unknown to the Mayor of the village from which such animal was brought to be impounded to apprise him that such animal will be sold by auction unless released and after three days from the date such notice was given such animal shall be sold by public auction and the pound-keeper after deducting all pound fees due shall pay the proceeds of the sale to the owner of the animal or if the name of the owner cannot be ascertained he shall pay such proceeds into the Treasury.

Procedure when animal is impounded.

362. Should no person bid for an animal sold by auction the pound-keeper may destroy such animal after obtaining the sanction of the Minister of Police or his representative.

Worthless animals may be destroyed.

363. It shall be unlawful for the pound-keeper to buy any animal for himself at auction and any pound-keeper who shall violate this provision shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding fifteen dollars ($15) to be levied by distress.

Pound-keeper may not buy animals.

(Police Court. Police to prosecute.)

364. Whoever shall bring an animal to be impounded shall if he knows who is the owner inform the pound-keeper and whoever shall wilfully conceal the name of the owner of the animal he impounds or shall make a false statement shall on conviction be liable to a fine of not less than one shilling (1s.) and not exceeding fifty dollars ($50) or be imprisoned with or without hard labour for any term not less than one day and not exceeding three months in default of payment.

Owner's name to be given.

(Police Court. Pound-keeper to prosecute.)

365. Whoever shall unlawfully remove or set at liberty any animal confined in any pound or damage any pound shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding fifty dollars ($50) or be imprisoned with or without hard labour for any term not less than one day and not exceeding six months in default of payment.

Penalty for breaking pound.

(Police Court. Police to prosecute.)

TRESPASS.

Trespass when ordered to leave.

366. Whoever shall enter upon the premises of another in

town or country whether enclosed or unenclosed and shall neglect to leave when ordered to leave by the owner shall on conviction be liable to a fine of not less than one shilling (1s.) and not exceeding twenty-five dollars ($25) or be imprisoned with or without hard labour for any term not less than one day and not exceeding three months.

(Police Court. Owner of premises to prosecute. Fees payable.)

Trespass without excuse.

367. Whoever shall enter upon the enclosed premises of another without lawful cause and without the consent of the owner shall on conviction be liable to a fine of not less than one shilling (1s.) and not exceeding five dollars ($5) or be imprisoned with hard labour for any term not less than one day and not exceeding one month in default of payment.

(Police Court. Owner of premises to prosecute. Fees payable.)

Leaving gate open.

368. Should any person enter upon the enclosed premises of another and wilfully or negligently leave open any gate and any damage result or any animal escape he shall on conviction be liable to a fine of not less than one shilling (1s.) and not exceeding five dollars ($5) or be imprisoned with hard labour for any term not less than one day and not exceeding one month.

(Police Court. Owner of premises to prosecute. Fees payable.)

Chapter XXI.

Offences Relating to Coin.

Passing counterfeit coin.

369. Whoever shall attempt to pass any counterfeit coin or coin not current in Tonga as coin current in Tonga with intent to defraud shall on conviction be imprisoned with hard labour for any term not less than one day and not exceeding two years.

(Police Court. Police to prosecute.)

Explanation.—The burden of proof that he attempted to pass counterfeit coin, not knowing the nature of the coin and without intending to defraud, will rest with the accused.

Currency.

370. Gold and silver coin of Great Britain Germany and the United States of America shall be legal tender in Tonga but it shall be lawful for the King with the consent of the Privy Council by proclamation to make other provisions respecting currency.

Chapter XIII.

Perjury and Offences Relating to Justice.

371. Whoever shall make or shall persuade another or attempt to persuade another to make a false statement before any Magistrate on oath or affirmation with intent to pervert the truth shall on conviction be imprisoned with hard labour for any term not less than one day and not exceeding ten years.

Perjury.

(Supreme Court with Jury.)

Explanation.—Two witnesses at least are required to prove the perjury, and the records of the Court before which the statement alleged to be false was made must be produced. This Section will apply not only to false evidence, but also to affidavits made before a Magistrate.

372. Whoever being a Justice or Magistrate or Juror shall wilfully give a decision in any Court knowing such decision to be contrary to law or contrary to the evidence shall on conviction be imprisoned with hard labour for any term not less than one day and not exceeding three years.

Perversion of Justice.

(Supreme Court with Jury.)

373. Whoever shall maliciously charge another with any offence knowing such charge to be unsupported by just grounds shall on conviction be liable to a fine of not less than one dollar ($1) and not exceeding one hundred dollars ($100) or be imprisoned with or without hard labour for any term not less than one day and not exceeding two years.

(Police Court. Person falsely accused to prosecute.)

Illustration.—A being angry with B informs a policeman that B had been guilty of furious riding within the village boundaries, which is untrue. A would be liable under this Section.

Chapter XIV.

Offences Relating to Documents.

374. Whoever shall fraudulently write any document intending it to appear to have been written by another with the design of thereby obtaining any money or property or of injuring any person shall on conviction be imprisoned with hard labour for any term not exceeding five years.

Forgery.

(Supreme Court with Jury.)

375. Whoever shall fraudulently alter or destroy any document with intent to deceive the Government or any person shall on conviction be imprisoned with hard labour for any term not exceeding three years.

Tampering with documents.

(Supreme Court with Jury.)

376. Whoever shall attempt to make use of any forged or altered document with intent to defraud any person knowing such document to be false shall on conviction be imprisoned with hard labour for any term not exceeding three years.

Employing false documents.

(Supreme Court with Jury.)

Chapter XV.

OFFENCES RELATING TO PUBLIC HEALTH.

QUARANTINE.

Vessels from foreign ports.

377. In order to prevent the introduction of diseases into the Kingdom it shall be unlawful for any vessel coming from any place beyond the Kingdom to have any communication with the shore at any place in the Kingdom except by signal until she has been admitted to pratique and no vessel shall be admitted to pratique until the master of such vessel has signed the certificate and bond in accordance with Schedules A and E hereto.

Yellow flag to be shown.

378. Every vessel coming from any place beyond the Kingdom shall hoist a yellow flag by day and a green light by night at the fore-mast or only mast-head and continue to hoist such flag or light until the vessel shall be admitted to pratique. Any master violating this provision shall on conviction be imprisoned for any term not exceeding six months or fined in a sum not exceeding one thousand dollars ($1,000) as shall be decided by the Court.

Penalty.

Vessel not admitted to pratique must not communicate.

379. It shall not be lawful for any vessel that has not been admitted to pratique to approach within one hundred (100) yards of any other vessel or for any person to leave such vessel and go on shore or to any other vessel or transmit any article therefrom or for any boat or vessel or person excepting the Pilot or Health Officer to approach within one hundred (100) yards of a vessel before such vessel shall have been admitted to pratique and any person violating the provisions of this section shall on conviction be imprisoned for any term of not exceeding three months or be fined in the sum of not exceeding five hundred dollars ($500) as shall be decided by the Court.

Penalty.

Duties of Pilot.

380. The Pilot shall approach the vessel on the windward side and within speaking distance but he shall not go on board should he have reason to suppose there is an infectious or contagious disease on board except he have reason to believe such vessel to be in danger unless he board her. In such case it shall be lawful for him to board but he must remain on board until such vessel is admitted to pratique.

Duties of Health Officer.

381. The Health Officer shall approach the vessel on the windward side and within speaking distance but he shall not go on board until the Master of such vessel shall have signed and delivered to him the certificate (Schedule A) and it shall then be lawful for him to admit such vessel to pratique.

If Health Officer delays ship may anchor.

382. But should the Health Officer not go on board at once and should the master or Pilot be certain there is no infectious or contagious disease on board it shall be lawful for the vessel to enter the harbour and anchor. But it shall not be lawful for such vessel to have any communication with the shore or with any other vessel in accordance with this chapter until admitted to pratique by the Health Officer.

383. The refusal of any master to sign the certificate shall be considered sufficient evidence that a contagious or infectious disease exists on board and it shall be lawful for the Pilot or Health Officer to command such vessel to go to the Quarantine Station reporting the case to the authorities of that district.

Master refusing to sign papers.

384. Should the master or surgeon of any vessel make a false declaration he shall on conviction be imprisoned for a term of not exceeding twelve months or be fined in a sum not exceeding one thousand dollars ($1,000) as may be decided by the Court.

False declarations.

385. Should any Pilot or Health Officer admit any vessel to pratique knowing there to be infectious or contagious disease on board he shall be punished in accordance with Section 384.

Health Officer admitting contagious vessel to pratique.

386. Should any person on board any vessel refuse to answer or answer falsely the questions contained in Schedule A. or such questions as may be put to him by the Pilot or Health Officer he shall on conviction be punished in accordance with Section 384.

Refusing to answer questions.

387. Any vessel which is admitted to pratique shall at once haul down the yellow flag or green light and communication with such vessel shall then be free.

Admission to pratique.

388. Should it appear to the Pilot or the Health Officer from the answers given in reply to questions that such vessel ought not to be admitted to pratique it shall be lawful for him to command such vessel to proceed to the Quarantine Station.

Officer may send vessel to quarantine.

389. Should any vessel be sent to a Quarantine Station it shall be lawful for the persons on board to land at such Quarantine Station but it shall not be lawful for any person to leave the Quarantine Station or to send or take anything from it.

Quarantine stations.

390. Whoever shall approach within one hundred yards of a vessel in quarantine or within one hundred yards of the boundaries of a Quarantine Station when used as such shall on conviction be fined in the sum of five hundred dollars ($500) and shall be obliged to go into quarantine and to remain there together with the vessel and at his own expense. Provided always that the Premier may if he see fit grant permission to any person to go into quarantine at his own expense but subject to all the provisions of this Chapter equally with those in quarantine.

Persons going to quarantine station when vessel is quarantined.

391. Should any vessel which is put in quarantine be wanting in necessaries it shall be lawful for the authorities to obtain the necessary provisions and charge them to the vessel. But should any provisions be supplied by the Government or by the friends of those in quarantine or others they shall be taken by a boat flying the Tongan flag and quarantine flag and shall be placed on the reef at least one hundred yards distant from both the vessel and the shore and when the boat which took such provisions has retired to a distance it shall then be lawful for those in quarantine to approach and take away such provisions. This is enacted so that the tide may cover that part of the reef to which the persons in quarantine come.

Vessel in quarantine requiring supplies.

392. When a Qarantine Station is in use the yellow flag shall be kept constantly flying by day. And should any vessel be without a quarantine flag the Government shall provide a flag to be hoisted at the station.

Yellow flag to be hoisted.

Escape from quarantine.

393. Any person who shall escape or attempt to escape from any Quarantine Station or from any vessel in quarantine may be brought back by force.

Leaving station.

394. Any person who shall leave any Quarantine Station or any vessel in quarantine on any pretence whatever until he has been admitted to pratique shall on conviction be punished in accordance with the provisions of Section 390.

Person communicating with vessel.

395. Whoever shall have communicated with a vessel in quarantine before or after the order of quarantine was made shall go with such vessel into quarantine and shall remain there as one having arrived in the vessel. And should the police become aware that any one has visited and has left or escaped from any vessel not admitted to pratique it shall be lawful for them to obtain a warrant from one of the Police Magistrates for the arrest of such person and to remove him to the Quarantine Station.

Vessel in quarantine sailing.

396. Should any vessel in quarantine wish to sail to another country and any person wish to board her to proceed beyond the Kingdom he shall be at liberty to do so.

Accidental visit to station

397. Should any person through ignorance or stress of weather or accident pass within the boundaries of any Quarantine Station or vessel in quarantine he shall be detained in quarantine with the vessel and be considered as having put himself into quarantine.

Visitors to vessel in quarantine.

398. Any person who shall have been on board any vessel not admitted to pratique shall on such vessel being ordered into quarantine go into quarantine with the vessel.

General penalty.

399. Whoever shall violate any of the provisions of this Chapter for which a penalty is not herein provided and whoever shall refuse or neglect to obey any lawful order of a Pilot or Health Officer shall on conviction be imprisoned for a term not exceeding three months or be fined in the sum of five hundred dollars ($500) as may be decided by the Court.

Jurisdiction.

400. It shall be lawful for any Police Magistrate to adjudicate upon and punish all violations of the provisions of this Chapter.

Coasting vessel may be quarantined

401. Although a vessel may have come from any other port in this Kingdom yet should it appear to the Pilot or Health Officer that such vessel ought to go into quarantine it shall be lawful for him to order such vessel to proceed to the Quarantine Station.

No claim on Government.

402. Should any vessel be sent to a Quarantine Station neither the owner nor any person on board shall have any claim against the Government for detention or for any loss or expense in connection with such quarantine.

Infectious diseases.

403. The following shall be considered infectious or contagious diseases :—

Cholera
Small-pox
Scarlet fever—scarlatina
Diphtheria and croup
Typhoid fever
Typhus fever
Relapsing fever
Yellow fever
Syphilis
Dengue fever
Measles

The Premier shall have power to add to the foregoing the names of

any other diseases which he may deem necessary for the public safety and when any such names are duly proclaimed in the Government Gazette they shall be held to be infectious or contagious diseases within the meaning of this Chapter.

In the case of labour vessels the following shall be held to be infectious or contagious diseases:

Leprosy — Tokelau-pox
Tanna-pox

404. The Premier shall have power to appoint a Quarantine Station and determine its boundaries and anchorage. *Quarantine stations.*

405. Should the Master of any vessel require a clean Bill of Health (Schedule I.) certifying that no infectious or contagious disease exists in this Kingdom it shall be lawful for the Health Officer to give a clean Bill of Health if he be confident that no such disease exists. *Clean Bill of Health.*

406. Should any sick sailor or person be left ashore by any vessel the master or agent of such vessel shall be held responsible for all expenses incurred in the care of such person and shall find securities for the payment of such expenses. *Sick left behind to be paid for.*

407. Whenever it shall appear to the Premier that there is an infectious or contagious disease in any foreign port and any vessel arrive from such port it shall be lawful for the Premier or his representative to order the vessel arriving from such port to proceed at once to the Quarantine Station and to remain there until the appointed time for quarantine be completed. The Premier or his representative shall have power to fix the period during which such vessel shall remain in quarantine. *Infected ports.*

LEPROSY AND CONTAGIOUS DISEASES.

408. Should any person be infected with leprosy the near relatives of such person shall build a house on their plantation land not less than two hundred yards from any road and one mile from any village and shall remove such leper thither and there support him and the leper shall not approach any public road or village and any near relative of a leper who shall infringe any of these provisions shall on conviction be liable to a fine of not exceeding fifty dollars ($50) to be recovered by distress. Provided that it shall be lawful for the Minister of Police with the consent of the Cabinet to issue a written order for the removal of any leper to an island when the Government shall have set apart an island for the reception of lepers. *Seclusion of lepers.*

(Police Court. Police to prosecute.)

409. Any person having an open sore or any contagious disease who bathes in or draws water from any well used as a bathing place or draws water from any spring used for drinking purposes shall on conviction be liable to a fine of not exceeding five dollars ($5) to be recovered by distress. Provided that it shall be lawful for the Minister of Police with the consent of the Cabinet to issue a written order for the removal of any person suffering from open sores or any contagious disease to an island when the Government shall have set apart an island for the reception of sufferers from contagious diseases. *Seclusion of contagious diseases.*

(Police Court. Police to prosecute.)

410. Should any of the infectious or contagious diseases above specified exist in any village or district the Premier shall have power to declare such village or district to be in quarantine under the *District in quarantine.*

same restrictions as vessels in quarantine and whoever shall thereafter pass over the boundaries of such district or village (except with a written permit signed by the Minister of Police) shall on conviction be liable to a fine of not exceeding one hundred dollars ($100) or be imprisoned with or without hard labour for any term not exceeding three months in default of payment.

(Police Court. Police to Prosecute.)

SCHEDULE A.

(*Certificate*).

QUESTIONS.	ANSWERS.
What is the name of the vessel?	
To what port does she belong?	
From whence do you come?	
When did you quit your port of lading?	
To what port are you bound?	
At what ports or places have you touched on your voyage since you left the port of lading and on what dates did you quit each of those places?	
What vessels have you had intercourse or communication with on your passage and on what dates and whence did they come and what was the nature of the communication?	
Did any infectious or contagious disease exist at the place from which such vessel came?	
Did any infectious or contagious disease of a dangerous nature exist at or in the vicinity of the place whence you sailed or on board any vessel with which you have had personal intercourse or communication on your passage or at any of the places at which you have touched?	
Are there any persons on board your ship suffering from any infectious or contagious disease or has any person died or been ill of a disease of that nature during the voyage?	
And (if any) what number?	
And if any have died or been ill of a disease were their bedding and clothes destroyed?	
Have you any and what Bill of Health?	

Signature of Master [*or*] Surgeon..

Date

SCHEDULE E.

(Bond.)

I Master of the
of hereby most truly declare that the name of the port at which the vessel under my command originally cleared from for the present voyage was which port I left days ago.

No epidemic or infectious or contagious disease existed in the said port or in its vicinity within a short time previous to my departure, nor has this been the case at any other port or ports at which I have since called.

No person on board my vessel has been seized with or died of any infectious or contagious disease during my present voyage nor have I heard of any such disease on board of any vessel that I have communicated with on my way to this place.

I hereby bind myself in the sum of one thousand dollars ($1,000) for the truth of the above statements to be forfeited if after investigation by the Tongan Government any one of such statements be found to be untrue.

Given on board the this
day 18

Master.

SCHEDULE I.

Clean Bill of Health.

Port of Tonga Islands.

To all to whom these Presents shall come :—

I the undersigned Officer of His Majesty King GEORGE in the Port of
Tonga send greeting :—
Whereas the Ship or Vessel called the
whose Master is is about to sail
from the said Port of for the Port of
and other places beyond the seas with
persons on board including the said Master :—

Now know ye that I the said Officer do hereby make it known to all men and pledge my faith thereunto that at the time of granting these Presents no Plague Epidemic Cholera nor any dangerous or contagious disorder exists in the above Port or neighbourhood.

GIVEN in the Custom House of the Port of
on the day of
in the year of our Lord One thousand eight hundred and

Health Officer.

Chapter XVI.

MINOR OFFENCES.

BROTHELS.

Brothels.

411. Whoever shall be the proprietor or keeper of a brothel or shall have any female in his paid employment for immoral purposes in any house shall on conviction be liable to a fine of not exceeding two hundred dollars ($200) or be imprisoned with or without hard labour for any term not exceeding twelve months.

Petty offences.

412. Whoever shall commit any of the following acts shall on conviction be liable to a fine of not exceeding five dollars ($5) or be imprisoned with or without hard labour for any term not exceeding one month in default of payment.

Shouting, &c.

1. Shouting or making a noise in any town excepting in announceing *fonos* Government proclamations and calling *sail-ho*.
   (Police Court. Police to prosecute.)

Beating drum.

2. Beating a tin or tank or other such noisy instrument without just cause or causing a disturbance within any town.
   (Police Court. Police to prosecute.)

Blowing bugle

3. Blowing a brass instrument within any town without permission from the Government.
   (Police Court. Police to prosecute.)

Abusive language.

4. Using abusive language to any person or using indecent language within any town.
   (Police Court. Injured person or police to prosecute.)

Obstructing road.

5. Placing any obstruction in a public road.
   (Police Court. Injured person or police to prosecute.)

Firing gun.

6. Discharging any firearm within any town without permission from the Mayor.
   (Police Court. Police or Mayor to prosecute.)

Gambling.

7. Gambling with cards or otherwise.
   (Police Court. Police to prosecute.)

Challenging.

8. Challenging any person to fight whether any fight took place or not.
   (Police Court. Injured party or police to prosecute.)

Exposing person.

9. Exposing the person (or being without the lower garment) in the sight of any person or being without an upper garment in the road within any town.
   (Police Court. Police to prosecute.)

EXPLANATION.—In the cases above specified no Court fees will be paid when the police prosecute, but when the injured person prosecutes fees must be paid.

413. Whoever shall be drunk and incapable or drunk and disorderly may be arrested by the Police and confined at the Police Station until the following morning when he shall be brought before the Police Court if a Police Court is within reach. But in districts where there is no Police Court an intoxicated person may be confined in the village officer's house until sober when he shall be set at liberty and the case reported to the next visiting Constable for prosecution and he shall be liable on conviction to a fine of not exceeding five dollars ($5) or be imprisoned with or without hard labour for not exceeding seven days in default of payment. In villages where there are no Police the village officer shall discharge the duties of a Constable in dealing with drunken persons.

Drunkenness.

(Police Court. Police to prosecute.)

THE SABBATH DAY AND PUBLIC WORSHIP.

414. Whoever shall do any work on the Sabbath Day such as house-building boat-building gardening fishing or conveying anything by boat or waggon except in cases of emergency and whoever shall discharge a firearm in the town or country or engage in any game such as cricket on the Sabbath Day shall on conviction be liable to a fine of not exceeding five dollars ($5) or be imprisoned with hard labour for not exceeding twenty-one days in default of payment.

Sabbath breaking.

(Police Court. Police or Mayor to prosecute. No fees payable.)

415. Whoever shall disturb any religious service held in the church of any denomination whether by day or night upon the Sabbath or weekday shall on conviction be liable to a fine of not exceeding fifty dollars ($50) or be imprisoned with or without hard labour for not exceeding three months.

Dirturbing service.

(Police Court. Police or injured person to prosecute.)

416. Should the churches of two religious denominations be less than three hundred yards distant from one another the Minister of Police or Mayor shall fix the time for holding their respective services so as to prevent churches so situated from holding their services at the same time. But this shall not apply to denominations who have agreed to hold their services at the same time. The following shall be the hours for holding services:—From nine until ten o'clock a.m. and from three until four o'clock p.m. for one denomination and from ten until eleven o'clock a.m. and from four until five o'clock p.m. for the other denomination and whoever shall infringe this regulation by holding or attending any service which is not in accordance with the provisions of this Section shall on conviction be liable to a fine of not exceeding one dollar ($1) or be imprisoned with or without hard labour for three days in default of payment. Provided that nothing in this section shall be held to apply to midnight New Year services or services on fast days.

Times for holding services.

(Police Court. Aggrieved person to prosecute. Fees payable.)

FISHING WITH DYNAMITE.

417. Whoever shall explode dynamite with the intention of killing fish without having a written permit from the Minister of Police shall on conviction be liable to a fine of not exceeding twenty-five dollars ($25) or be imprisoned for not exceeding one month in default of payment. The Minister of Police shall have power to fix the fee to be paid for a permit to use dynamite.

Dynamite for fishing.



VAGABONDS.

Vagabonds.

418. Should any able-bodied male person above the age of sixteen years appear to the Police to have no employment nor profession nor means of providing for himself or those that depend upon him he may be charged before the Court with idleness and on conviction may be imprisoned with hard labour for not exceeding three months.

(Police Court. Police or Mayor to prosecute. No fees payable.)

Chapter XVII.

MUNICIPAL REGULATIONS.

Municipal regulations.

419. It shall be lawful for any Mayor with the consent of the people of his village to make regulations for the governing of his village provided that such regulations shall not become law until sanctioned by the Cabinet and confirmed by the signature of the Premier. And whoever shall infringe any regulation so confirmed shall on conviction be liable to a fine of one dollar ($1) or be imprisoned with hard labour for four days in default of payment.

Penalty.

(Police Court. Mayor to prosecute. No fees payable.)

EXPLANATION.—It is no longer lawful to enact village regulations without the sanction of the Cabinet, but any Mayor who may wish to enact a regulation for his village may, after consulting his people, draw up such regulation and forward it to the Premier, together with a written explanation of the object of the proposed regulation for his village. If it should appear to the Premier that such regulation does not conflict with the law, he shall lay it before the Cabinet, and if the Cabinet accord their sanction the Premier shall sign the regulation and return it to the Mayor, to be put in force as a village regulation. It is unlawful to make any village regulation without first submitting it to the Premier. Any person infringing a village regulation shall be tried by the Police Court of the district.

DWELLINGS.

Dwelling-houses.

420. Every male who has attained the age of twenty-one years shall build his dwelling upon his own allotment either of European or of native materials but if of native materials it shall be not less than two fathoms in length built of cocoanut or pandanus wood roofed with sugar-cane leaves and walled with reeds and any such person who at the annual inspection shall be found to have neglected to build himself a house shall on conviction be liable to a fine of not exceeding five dollars ($5) to be levied by distress.

(Police Court. Inspecting Policeman or Mayor to prosecute. No fees payable.)

Inspection of dwellings.

421. An inspection of dwellings shall be made annually and should any house be in bad repair or badly drained or in a filthy condition or unfit to sleep in the Mayor shall order the owner to pull it down and rebuild it properly or to spread sea sand or gravel round the house and whoever shall neglect to obey such order without delay shall on conviction be liable to a fine of not exceeding ten dollars ($10) to be recovered by distress.

(Police Court. Police or Mayor to prosecute.)

Europeans not to reside with natives.

422. It shall not be lawful for any European to reside in any house belonging to a Tongan subject for a term of one month or more without first obtaining a written permit from the Minister of Lands and

any Tongan subject who shall allow any European to reside in his house for one month without first obtaining such permit shall on conviction be liable to a fine of not exceeding five dollars ($5) to be recovered by distress.

(Police Court. Police to prosecute. No fees payable.)

Sanitary Regulations.

423. Whoever shall neglect to cover with planks or timber any well or spring belonging to him in any unenclosed place within any town shall on conviction be liable to a fine of not exceeding five dollars ($5) to be recovered by distress.

Neglecting wells.

(Police Court. Police to prosecute. No fees payable.)

424. Whoever shall neglect to bury the carcase of any horse cattle sheep dog pig or other animal belonging to him which is lying within any town or public road or upon any beach shall on conviction be liable to a fine of not exceeding five dollars ($5) to be recovered by distress.

Unburied carcases.

(Police Court. Police to prosecute. No fees payable.)

425. Whoever shall pollute any water used for drinking or bathing purposes whether in the town or country or shall neglect to keep his own well clean shall on conviction be liable to a fine of not exceeding five dollars ($5) or be imprisoned with hard labour for any term not exceeding fourteen days in default of payment.

Polluting wells.

(Police Court. Police to prosecute.)

426. Every householder in every village shall erect a privy on his premises and the Police shall inspect such privies and whoever shall fail to comply with this Section or whose privy is in bad repair or in a filthy state shall on conviction be liable to a fine of not exceeding five dollars ($5) to be recovered by distress.

Privies.

(Police Court. Police or Mayor to prosecute. No fees payable.)

Cleaning Premises.

427. Every householder in every village shall clean his premises upon the last Saturday in each month and any householder whose premises are not so cleaned shall on conviction be liable to a fine of one dollar ($1) or be imprisoned with hard labour for four days in default of payment.

Cleaning premises.

(Police Court. Police to prosecute. No fees payable.)

Fonos.*

428. The regulations respecting Fonos are as follows :—

1. Any Tongan in any district in which a great fono is to be held by the Premier or Speaker of the Legislative Assembly or a Governor and has been announced by proclamation who shall neglect to attend such fono not being prevented by sickness or real emergency shall on conviction be liable to a fine of three dollars ($3) to be levied by distress.

Great fono.

2. Any Tongan who shall neglect to attend a fono to be held by the Mayor of his village when such fono has been duly announced shall on conviction be liable to a fine of one dollar ($1) to be levied by distress.

Mayor's fono.

* A *fono* is a meeting at which the chiefs give orders or admonitions to their people but at which no discussion takes place.

No Tongan exempt.

3. No Tongan taypayer shall be exempt from attending fonos although he may be in the employ of a European.

Publication of laws.

4. Any Act of the Legislative Assembly or Ordinance of the King in Council which shall be read at any fono shall be deemed to be in force.

(Police Court. Mayor or Police to prosecute. No fees payable.)

MARKS OF RESPECT.

Salutes.

429. Salutes shall be paid by raising the hand. Whoever shall infringe any of the following regulations shall on conviction be liable to a fine of two shillings (2s.) to be levied by distress :—

Riding past Palace.

1. It shall be unlawful to pass the King's fence on horseback or in any vehicle.

Riding past Noble.

2. It shall be unlawful to pass any of the nobles on horseback or in any vehicle.

Wearing *fa'u*, etc.

3. It shall be unlawful to wear the *fa'u(turban)* or be *navu (have the hair dressed with lime)* or be *huluhulu (without belt)* or be without a *taovala (cincture)* if in native dress in the presence of any noble: provided that this sub-section shall not be held to apply to youths who have not reached the age for paying taxes.

EXPLANATION.—No one can be punished for being without a *taovala* or *huluhulu* if he was not in a place where a noble was present.

(Police Court. Police or Noble to prosecute. No fees payable.)

BIRTHS AND DEATHS.

Sudden death.

430. Should any person die suddenly his body shall not be buried until the Mayor has been informed and if the Mayor shall think the death suspicious he shall inform the Police in order that an inquest may be held: but if the Police cannot be immediately informed the Mayor himself shall hold an inquest into the cause of death after which the body may be buried: provided that a full report of such inquest shall be sent to the Inspector of Police before the expiration of one week from the date of the enquiry.

Inquest.

Registration.

431. Any person being the head of any family in which a birth or death has taken place who shall neglect to inform the Clerk of the Supreme Court within three weeks of such birth or death shall on conviction be liable to a fine of one dollar ($1) to be recovered by distress.

(Police Court. Police to prosecute. No fees payable.)

Funerals.

432. Should any burial take place and the family of the person to be buried have sent notice to any undertaker to attend such burial and he neglect to attend the relatives of the deceased person shall employ some other person whether an undertaker or not to discharge the duties of undertaker and it shall be lawful for the relatives of the deceased person to prosecute the undertaker who neglected to attend and on conviction he shall be liable to a fine of not exceeding four dollars ($4) or be imprisoned with hard labour for any term not exceeding fourteen days in default of payment.

(Police Court. Relations of deceased to prosecute. Fees payable.)

PUBLIC HOLIDAYS.

4th June.

433. 1. Seeing that upon the fourth day of June in the year One thousand eight hundred and sixty-two the people of Tonga became free therefore shall that day be

observed as a public holiday every year for ever as a remembrance of the freedom of Tonga and whenever the fourth day of June shall fall upon a Sunday the next day following shall be observed as a public holiday.

2. Seeing that the Constitution was granted by His Majesty King George Tubou upon the fourth day of November in the year One thousand eight hundred and seventy-five therefore shall the fourth day of November in every year be observed as a public holiday.

4th November.

3. Seeing that upon the fourth day of December His Majesty George Tubou was crowned King of Tonga therefore shall that day in every year be called Tubou's day and observed as a public holiday.

4th December.

Census.

434. The Minister of Police shall appoint a time for taking the census and the Mayor and Village Scribe and Village Officer in each village shall be responsible for the correctness of the census in their village.

Census.

2. Whoever shall neglect to comply with census requirements at the time appointed by proclamation for taking the census shall on conviction be liable to a fine of three dollars ($3) and whoever shall give incorrect answers or shall fraudulently make a false return in any census paper or any return to be compiled together with the census papers shall on conviction be liable to the penalty provided in Section 375 hereof.

Penalty for false returns.

(Police to prosecute. No fees payable.)

Indigent Persons.

435. Should it appear to any Mayor that any man woman or child has been deserted by his relations and is sickly and unable to obtain the necessaries of life he shall inform the Inspector of Police who shall inquire into the case and if there should appear to him sufficient grounds for interference he shall prosecute the near relations of such indigent person and upon conviction the Magistrate shall order the relations to maintain such indigent person and whoever shall disobey such order for maintenance shall on conviction be liable to a fine of twenty-five dollars ($25) or be imprisoned with hard labour for three months in default of payment.

Indigent persons.

Order for maintenance

(Police Court. Police to prosecute. No fees payable.)

Explanation.—The Magistrate should warn the defendant, at the time he makes the order, of the penalty to which he will be liable for disobedience.

Pulling Down Cocoanuts.

436. Whoever shall pluck cocoanuts to make copra or oil or for sale shall on conviction be liable to a fine of not exceeding five dollars ($5) or be imprisoned with hard labour for not exceeding fourteen days in default of payment.

Plucking cocoanuts.

(Police Court. Mayor, Police, or any person may prosecute. No fees payable.)

Travellers.

437. 1. Any person travelling to a distant place upon a Government road if he be thirsty may peel and drink cocoanuts growing by the roadside in any main road but it shall

Traveller may drink cocoa nuts.

not be lawful for him to carry away any nuts but only to relieve his thirst nor may he take nuts from any plantation.

Vessels in distress.

2. Should any vessel put into any island in distress it shall be lawful for the crew to drink the cocoanuts and eat the fruit of any tree growing in such island but it shall not be lawful for them to carry away anything beyond what is necessary for their bare support until they can reach some port.

Penalty.

3. Whoever shall infringe any of the provisions of this section shall on conviction be liable to the penalty for larceny. *(Section 314.)*

RULES FOR HORSES AND VEHICLES UPON THE ROAD.

438. Whoever is in charge of any vehicle or horse in any road shall observe the following regulations :—

Vehicles meeting.

1. When one vehicle or horse meets another in any road they shall both incline to their left hand.

Overtaking.

2. When one vehicle or horse overtakes another in any road and wishes to pass it it shall pass on the right hand of the vehicle it is passing if no other vehicle is approaching.

Leaving horse in road.

3. It shall not be lawful to leave any horse or vehicle in any road without some person in charge.

Causing obstruction.

4. It shall not be lawful to stop any vehicle in any road so as to cause an obstruction.

Whoever shall infringe any of the provisions respecting vehicles and horses shall on conviction be liable to a fine of one dollar ($1) to be recovered by distress.

(Police Court. Police or any person may prosecute. No fees payable when Police prosecute.

Chapter XVIII.

OF LAND.

Land vested in Crown.

439. It is enacted by Clause 109 of the Constitution that all the land of the Kingdom is vested in the King who may grant inheritances to the Nobles and their heirs and successors and further that it is unlawful to sell any land and that no sale or conveyance of land shall be recognised by the Courts of the Kingdom.

440. No land shall be held by any Foreigner except upon a lease or permit signed by the Minister of Lands.

Selling land a felony.

441. Whoever being a Tongan subject whether chief or commoner shall sell or convey any land to any person shall on conviction be imprisoned with hard labour for not exceeding ten years.

(Supreme Court and Jury.)

442. Whoever being a Tongan subject whether Chief or Commoner shall lease any land or permit any Foreigner to reside upon any land without first obtaining written permission from the Minister of Lands shall on conviction be liable to a fine of not exceeding five hundred dollars ($500) or be imprisoned with hard labour for not exceeding twelve months in default of payment.

Permit for foreigner to reside.

Police Court. Minister of Lands to prosecute.)

443. Whoever being the subject of a Foreign State shall obtain a lease of land or occupy any land without first obtaining the written permission of the Minister of Lands shall on conviction be liable to a fine of not exceeding fifty dollars ($50) or to not exceeding three months imprisonment in default of payment.

Penalty for foreigner residing without permit.

Leases to Foreigners.

444. No lease sub-lease transfer nor any document affecting land will be considered valid or recognised by the Courts of this Kingdom unless made in accordance with the Constitution and duly registered in the office of the Minister of Lands.

Validity of leases.

445. All applications from Tongans for permission to let land to Foreigners or from Foreigners applying for a lease of land shall be made in writing to the Minister of Lands.

Applications for leases.

446. The form of deed for leases sub-leases transfers and permits which have been sanctioned by King George Tubou are declared the form in which all future deeds of leases sub-leases transfers and permits shall be made and all deeds to Foreigners shall be made in the name of the King.

Form of deeds.

447. It shall be unlawful for any religious body holding land upon lease to use such leased lands for any other than religious purposes or to sell or sub-let such land for any other purpose. And if any religious body shall be proved to have infringed the provisions of this Section the lease shall be cancelled and such land shall at once revert to the Crown or to the Noble in whose inheritance such land is included.

Leases to Churches.

(Supreme Court without Jury. Civil Jurisdiction. Minister of Lands to prosecute.)

448. All the foreshore in the Kingdom from fifty feet above high-water mark is the property of the Crown and it shall be lawful for the Government to grant permits to erect a store jetty or wharf upon any portion of the foreshore and the Minister of Lands with the consent of the Cabinet may grant such permit or permits for Foreigners to reside upon any land but such permits shall not be transferable and if the holder of any permit should die before the expiration of his permit such permit shall become void and the land revert to the Crown.

Permits for foreshore and residence.

449. All leases of land granted by the Government to Foreigners previous to the passing of "The Revised Constitution Act of Tonga of 1882" but which are now included in the hereditary estates granted by His Majesty King George to the Nobles and Hereditary Chiefs shall be transferred to the said Nobles and Hereditary Chiefs who shall receive all rents for such leases subject to the provisions of this Chapter.

Rents.

450. The Crown shall receive as royalty one-tenth of the annual rent for all leases made by Nobles or Hereditary Chiefs and all such leases shall be granted in the name of the King.

Royalty.

Fees.

451. The Minister of Lands shall determine the amount of registration and other fees in connection with leases sub-leases transfers permits surveys mortgages or other documents affecting land.

HEREDITARY ESTATES GRANTED TO NOBLES.

Estates: To whom granted.

452. It shall be lawful for the King to grant hereditary estates to any Noble in addition to the lands already granted as notified in the Gazette and such hereditary lands shall descend to the lawful heirs male of his body in accordance with clause 117 of the Constitution provided that no person shall succeed to any estate who is insane or imbecile or who has since the granting of the Constitution been convicted of felony.

Succession to estate without heirs.

453. Should any Noble die without legitimate heirs or become insane or be convicted of felony the King shall appoint some person of such Noble's family to succeed to the title and hereditary estates.

Taxpayers entitled to allotments on estate.

454. Every male Tongan subject who has attained the age of sixteen years and is lawfully residing on the estate belonging to any Noble or to the Crown shall be entitled to a village allotment and a tax allotment in such estate or Crown land and such allotment shall be granted and registered by the Minister of Lands and such allotments shall be hereditary in the male line and the Noble shall receive the sum of one dollar ($1) per annum from every occupier of tax allotments on his estate.

Noble may not eject tenant.

455. It shall be unlawful for any Noble to dispossess any Tongan subject of any tax allotment granted by the Minister of Lands for any cause not in accordance with law and any person so unlawfully dispossessed may appeal to the Minister of Lands who shall cause such tax land to be restored. *(Compare Section 84.)*

Unoccupied land may be leased.

456. Should there be a large portion of the estate of any Noble unoccupied after tax allotments have been apportioned to all the people residing upon his estate it shall be lawful for such Noble with the consent of the Minister of Lands to let a portion of such land to Foreigners. *(Compare Section 445.)*

Royalty.

457. The Noble any part of whose hereditary land is let to a Foreigner shall receive ninety per centum and the Government shall receive ten per centum of the rents paid therefor. *(Compare Section 443.)*

Limited powers of Noble.

458. The Noble who holds a hereditary estate shall have no power to refuse a tax allotment to any person lawfully residing upon his land nor to dispossess any person to whom the Minister of Lands may have granted a tax allotment nor to dispossess any person of a tax allotment he has long occupied nor let or permit any Foreigner to reside on any part of his land without the written permission of the Minister of Lands. His interest in the land is limited to receiving the rents for tax allotments and land leased to Foreigners. Provided that it shall be lawful for any Noble to order any person to leave his hereditary estate who belongs properly to another place or holds tax lands in another place even though he may have married a woman of a village upon such hereditary estate.

Nobles to report cases of accumulation of land.

459. It shall be the duty of the Nobles to report to the Minister of Lands all cases of persons cn his estate who hold more than one tax allotment in order that the Minister of Lands may call upon such person to choose which tax allotment he will retain and the other tax

allotments he occupied shall revert to the Noble owning the estate to be granted to any person who holds no tax allotment.

TAX ALLOTMENTS.

460. Every male Tongan subject shall be entitled to a hereditary village allotment and a tax allotment and the Minister of Lands or his Deputy shall grant a tax allotment to every person who has attained the age for paying taxes provided that such person does not already hold a tax allotment. And every tax land so granted shall be recorded in the Register and a deed shall be delivered to the holder signed by the Minister of Lands or his Deputy.

Every Tongan entitled to land.

461. The Nobles or the Government shall receive one dollar ($1) annually from every holder of tax allotments in their respective estates.

462. Any person who shall at the passing of this Act hold a tax allotment shall continue to hold such allotment and shall apply to the Minister of Lands or his Deputy for a deed which shall be forthwith registered.

Former holdings are confirmed.

463. No Tongan subject shall hold more than one tax allotment save with the consent of both the landlord of the estate and the Minister of Lands.

No one to hold two allotments.

EXPLANATION.—Should the landlord of the estate and the Minister of Lands permit any person to occupy more than one allotment, no deeds shall be issued for the additional allotments, but only for the one allotment which is hereditary. And if at any time the taxpayers on the estate are too numerous to allow of each having a tax allotment, the allotments occupied with the permission of the landlord and Minister of Lands shall be given up and the allotment only which was registered shall be retained.

464. The area of tax allotments in Hihifo in Tongatabu and Haapai shall be fifty fathoms by fifty fathoms but in the rest of Tongatabu Vavau Niuafoou Niuatobutabu, and Eua the area of tax allotments shall be one hundred fathoms by one hundred fathoms.

Area of allotments.

465. Tax allotments shall be hereditary in the male line only in accordance with Clause 117 of the Constitution that is tax allotments shall descend to the eldest male child and the male heirs of his body lawfully begotten but if he have no male heirs then to the second male child and the heirs of his body as long as taxes are regularly paid by the holder of the allotment.

Holdings to be hereditary.

466. But should any person holding a tax allotment die without heirs his widow shall hold such tax allotment during her lifetime and while she remains unmarried and chaste but on her death or marriage or breach of chastity the tax allotment shall revert to the Crown or the Noble in whose hereditary estate it is included and it may be granted to any person who is without a tax allotment.

Widow to hold allotment till death.

467. Should any holder of a tax allotment die without male heirs and leaving no widow such tax allotment shall revert to the Crown or the Noble in whose hereditary land it is included.

If no heir, holding shall revert to Crown.

468. Should any holder of a tax allotment die leaving no widow and his heir already hold a tax allotment the heir shall choose whether he will continue to hold his existing tax allotment or take his father's tax allotment and whichever tax allotment he shall not choose shall revert to the Crown or to the Noble in whose hereditary land it is included for no person may hold two tax allotments. *(Compare Section 463.)*

Heir to choose allotment.

Entry to be cancelled on transfer.

469. When any tax allotment shall be transferred to another or revert to the Crown the Minister of Lands shall cancel the entry in the Register and make a new entry of such allotment under the name of the person if any who shall have become entitled to it.

EXPLANATION.—The entry shall be cancelled by writing the words "Lapsed" or "Transferred" and the date in red ink across the entry. In the case of a transfer the number of the new entry should follow the word "Transferred."

Form of deed.

470. The following shall be the form of deed for tax allotments :—

[TRANSLATION.]

DEED OF ALLOTMENT.

No.

To

I hereby grant to you the allotment known as in the Estate of to be your hereditary allotment as long as you continue to pay taxes; but if you neglect to pay taxes for three years the allotment will be forfeited. And you shall pay one dollar ($1) a year as rent for this allotment to

For the Minister of Lands.

Date

189 .

Loss of deed.

471. Should any person lose the deed for his tax allotment it shall be lawful for the Minister of Lands or his Deputy to issue a new deed for the same tax allotment bearing the same number and particulars as the entry in the Register.

Exemption from taxes.

472. Should any person be exempted from paying taxes owing to sickness or infirmity he shall continue to hold his tax allotment until his death.

FORFEITURE OF TAX LANDS.

Forfeiture only for non-payment of tax.

473. It shall be unlawful for the King or any Chief to take away any tax allotment which has been granted by the Minister of Lands and it shall be unlawful for the Government to take away the tax allotment of any person except upon an order signed by a Police Magistrate before whom it has been proved that the holder of such tax allotment has failed to pay his land tax for twelve months.

Procedure for temporary forfeiture.

474. Whoever shall fail to pay his land tax for one year may be sued by the Tax Collector as laid down in Section 490. and upon proof being given that he has so failed to pay his land tax it shall be lawful for the Magistrate to make an order to the Minister of Lands for the temporary forfeiture of his tax allotment in the following form :—

[TRANSLATION.]

ORDER FOR TEMPORARY FORFEITURE.

To the Minister of Lands or his Deputy.

Take notice that the allotment called in the Estate of has been temporarily forfeited by of in the district of for having failed to pay his taxes and upon payment of his taxes such allotment shall be returned to him.

Police Magistrate.

Date

Notice to be served on holder of allotment.

475. Upon receipt of the order laid down in the last preceding section it shall be lawful for the Minister of Lands or his Deputy to make an entry in the Register that the tax allotment to which it refers is forfeited provisionally and to make an order in the following form and cause it to be served upon the person concerned :—

[TRANSLATION.]

NOTICE OF TEMPORARY FORFEITURE OF TAX ALLOTMENT.

To of in the District of

I hereby give you notice that your allotment called in the Estate of in the district of has been forfeited because you have failed to pay your taxes, and you are forbidden to

make use of such allotment except you make copra for your taxes until all arrears of taxes have been paid. And if you fail in paying all your taxes in two years reckoning from this day your tax allotment will be permanently forfeited. But if you pay all your taxes you will again resume the occupation of your allotment.

Minister of Lands.

Date

EXPLANATION.—The entry should be made in red ink across the entry in the Register in the words "Forfeited temporarily" and the date.

476. Whenever the Minister of Lands or his Deputy has made an order as laid down in the last preceding Section he shall immediately inform the Mayor of the village in which the person in respect of whom the order was made resides and the Mayor shall forthwith prohibit such person from planting on his tax allotment and the village officer shall have power to expel him from the land without a warrant but such person shall be allowed access to the land for the purpose of making copra or other produce only to enable him to pay his taxes.

Mayor to expel defaulter from allotment.

477. Should any person plant food upon a tax allotment which he has forfeited such food shall become the property of the Government.

Food planted to be forfeited.

478. At the expiration of two years from the date of the order of provisional forfeiture if the person in respect of whom the order was made shall not have paid his taxes in full the Minister of Lands or his Deputy may make an order for final forfeiture as follows :—

Final forfeiture.

[TRANSLATION.]

ORDER FOR FINAL FORFEITURE OF TAX ALLOTMENT.

To of in the district of

I hereby give you notice that your tax allotment in the Estate of in the district of has been finally forfeited because you have for three years been in arrears with your taxes, and the deed of lease which you hold for your allotment has been cancelled.

Minister of Lands.

Date

EXPLANATION.—The entry in the Register should be cancelled in red ink by writing the words "Finally forfeited" and the date.

479. Upon issuing the order laid down in the last preceeding Section the Minister of Lands or his Deputy shall at once inform the Mayor of the village in which the person in respect of whom the order was issued resides and the Minister of Lands shall have power to grant the tax allotment to any other person who is without a tax allotment but should the person who has forfeited such tax allotment again resort to it he shall be liable to prosecution for trespass.

Mayor to be informed.

RECOVERY OF FORFEITED TAX LANDS.

480. Should any person in respect of whom an order for provisional forfeiture of his tax allotment pay all his taxes and arrears in full before the expiration of three years or before an order of final forfeiture has been made against him he may apply to the Minister of Lands or his Deputy for a restitution of his tax allotment and if he shall prove by production of his tax receipts or other reliable evidence that he has paid his taxes in full together with all arrears the Minister of Lands or his Deputy shall restore to him his tax allotment and make an entry in the Register of the date on which it was restored and shall inform the Mayor of the village in which such person resides. Any person against whom an order of final forfeiture has been made shall be entitled to receive a grant of another tax allotment as provided in Section 454.

Mode of recovery upon payment of taxes.

Transfer of Tax Allotment.

Transfer of allotment.

461. Should any person desire to remove permanently to another district he may petition the Minister of Lands or his Deputy in the district to which he desires to remove to grant him a tax allotment in that district and the Minister or his Deputy shall forthwith require him to produce the deed of his former tax allotment and the receipts for his taxes in full and forward such deed to the Minister or his Deputy in the district in which it was issued to be cancelled and it shall then be lawful to issue a grant for a tax allotment in the district to which such person desires to remove.

The Clerk to be notified.

462. Upon issuing a grant for a tax allotment under the last section the Minister of Lands or his Deputy shall at once direct the Tax Collector of his district to enter the name of the person in respect of whom the grant is issued upon the roll of taxpayers of the district.

Ministers' Allotments.

Church allotments.

463. It shall be lawful for the Minister of Lands or his Deputy to grant tax allotments to the ministers of all denominations in every village from which to pay their taxes but such allotments shall not be hereditary but may be used only by the Minister who is for the time appointed to the village.

Chapter XIX.

OF TAXATION.

Land Tax.

Guards exempted.

484. Every male Tongan subject who has attained the age of sixteen years shall pay the Land-tax whether he holds a tax allotment or not. Provided that the King's guards shall be exempt from the operation of this Section.

Amount of Land Tax.

Collegians.

465. The Land-tax shall be nine dollars ($9) annually for each tax-payer of which two dollars one shilling ($2 1s.) shall be payable in each of the quarters ending on the thirty-first day of March the thirtieth day of June the thirtieth day of September and the thirty-first day of December respectively. Provided that persons residing and receiving tuition in the Government College who do not receive any salary from the Government shall pay a tax of four dollars two shillings ($4 2s.) annually of which one dollar and sixpence ($1 6d.) shall be payable in each quarter but it shall be lawful for the Legislative Assembly or the Privy Council to alter the amount of the Land-tax.

No interest on arrears.

488. No interest shall be paid on arrears of taxes.

School Tax repealed.

467. The Education-tax is hereby repealed.

Tax to be paid where allotment is situated.

488. Whoever shall hold a tax allotment shall pay his Land-tax in the district in which his tax allotment is situated unless he has the written permission of the Tax Collector of such district to pay his taxes in another district.

489. Should any person wish to remove from one district to another he shall inform the Tax Collector of the district in which he resides of his intention and the Tax Collector shall forthwith report the case to the Tax Collector of the district to which such person wishes to remove in order that such person's name may be entered on the roll of taxpayers in that district.

Removing to another district.

490. Any Tongan subject who shall arrive from any place outside the kingdom shall begin to pay taxes from the day on which he lands and at the end of each quarter the Tax Collecter by direction of the Cabinet shall sue before the Police Court such persons as have failed to pay their taxes and upon proof of such default the Magistrate shall issue a warrant to distrain for the arrears of taxes without costs.

(Police Court. Tax Collector to sue. No fees payable.)

Procedure when taxes are not paid.

491. Should any person be summoned for failure to pay taxes and the charge be proved without the extenuation of infirmity or other such excuse the Magistrate may send a notice to the Minister of Lands authorising the temporary forfeiture of the defaulter's tax allotment. *(Compare Section 474.)*

Defaulter's allotment forfeited.

492. Should any person be summoned for failure to pay taxes and be proved to be three years in arrears with his taxes the Magistrate shall send a notice to the Minister of Lands certifying that the defaulter has been three years in arrear with his taxes in order that his tax allotment may be finally forfeited. *(Compare Section 478.)*

Final forfeiture of allotment.

493. The Tax Collector shall give to every person who pays in taxes a receipt for the money paid in and any person who is summoned for failing to pay taxes shall produce such receipt in Court in his defence and it shall be lawful for any person who has lost his receipt for taxes to make an affidavit before any Police Magistrate or Clerk of the Police Court that he held a receipt and subsequently lost it and such affidavit shall be held to be of equal weight with the receipt. *(Compare the procedure for making affidavits—Section 371.)*

Receipts—if lost.

School Examinations.

494. The Premier shall appoint the time for holding the School Examinations in each year for passing the youths who have reached the age of sixteen years and recording their names as taxpayers and whoever has passed the age for the examination by twelve months without being examined shall begin to pay taxes without waiting to be examined. The Mayor shall hold such examination and report to the Collector of Taxes the names of the youths who have reached the age for paying taxes.

Mode of enrolling new taxpayers.

495. Whoever having attained the age of sixteen years and having been ordered to attend the examination shall fail to obey such order to attend shall on conviction be liable to a fine of not exceeding ten dollars ($10) or be imprisoned with hard labour for any term not exceeding one month in default of payment and shall further be adjudged to pay the tax for the year in which such examination was held to be levied by distress.

(Police Court. Mayor to prosecute. No fees payable.)

Penalty for non-attendance.

496. Any person whose name has been placed on the roll of taxpayers and who alleges that he has not attained the age of sixteen years may appeal to the Police Court and if it should appear to the Magistrate that he has not reached the age of sixteen years he shall

Youth may appeal to Police Court.

order him to be exempted from paying taxes until he has attained the age of sixteen years.

EXPLANATION.—In an appeal by a youth to the Police Court, a summons should be served on the Mayor calling upon him to appear and give his reasons for having enrolled the youth as a taxpayer; and if the appeal is upheld, the Magistrate will order the Tax Collector to strike the youth's name off the roll of taxpayers.

Mayor to make annual return.

497. The Mayor of every village shall during the first week in December in each year send a written return to the Tax Collector showing the number of taxpayers in his village and the number of horses and dogs with the names of their owners. And any Mayor who shall neglect to comply with the provisions of this Section shall on conviction be liable to a fine of ten dollars ($10) to be levied by distress and any Mayor or taxpayer who shall knowingly make a false return shall on conviction be liable to the punishment for making a false declaration in accordance with Section 374.

False return: Penalty.

(Police Court. Police to prosecute. No fees payable.)

Tax Collector may revise return.

498. Whenever it shall appear to any Tax Collector that any return made to him is incorrect it shall be lawful for him to call a meeting in the village to which the return refers to revise such return and any person who shall fail to attend such meeting after such meeting has been proclaimed by the crier shall on conviction be liable to a fine of ten dollars ($10) or be imprisoned with hard labour for one month in default of payment.

(Police Court. Tax Collector to prosecute. No fees payable.)

EXEMPTIONS FROM TAXES.

Annual enquiry for exemptions.

499. It shall be lawful for any Police Magistrate to hold an annual enquiry for the purpose of granting exemptions from paying taxes and any person who is sick or infirm may apply to such Court for a certificate exempting him from paying taxes and the Court shall grant to any person who is aged or infirm or in ill-health a certificate of exemption in accordance with Clause 18 of the Constitution.

(Police Court.)

Time of enquiry.

500. Public notice shall be given of the time for holding such enquiry for granting exemptions and the Mayors shall order the infirm and sick to attend such enquiry.

Certificate void on recovery.

501. Should any person to whom an exemption from paying taxes has been granted on the ground of ill-health recover his health such certificate of exemption shall be void and he shall pay taxes from the day on which he recovered his health and the Mayors shall report all such cases to the Tax Collector but any such person who claims to be still suffering from ill-health may appeal to the Police Court if his certificate be cancelled.

Long-sentence prisoners exempt from taxes.

502. Whoever shall serve a term of imprisonment with hard labour or simple imprisonment for six months or more shall not be compelled to pay taxes for the term of his imprisonment but whoever shall serve a term of imprisonment with hard labour or simple imprisonment for less than six months shall pay taxes for the term of his imprisonment.

HORSE-TAX

Horse-tax.

503. Every person who owns a horse shall pay a tax as follows:—

For every entire horse ten dollars ($10) annually.

For every gelding or mare one dollar ($1) annually.

504. Every Mayor shall forward to the Tax Collector during the first week of December a return of all persons who own horses in his village.

Mayor to furnish return.

505. Any person who shall fail to pay the horse tax when due shall be sued and upon conviction a warrant of distress shall be issued for the amount of the tax without costs. Provided that it shall be lawful for the Magistrate to order the horse for which the tax is due to be seized and if the tax be not paid within fourteen days such horse shall become the property of the Government and may be sold destroyed or otherwise disposed of

Procedure in default.

(Police Court. Tax Collector to prosecute. No fees payable.)

Dog-tax.

506. Every person who owns a dog shall pay a tax of one shilling (1s.) for each dog annually and any person who shall fail to pay the dog tax when due may be sued and on conviction a warrant of distress shall be issued for the amount of the tax together with the costs and the Magistrate may further order that unless such sum be paid within one week such dog be seized by the Police and disposed of by the Government.

Dog-tax.

(Police Court. Tax Collector to prosecute. No fees payable.)

Village Rates.

507. Every taxpayer shall pay to the Mayor of his village a sum of one dollar ($1) annually as village rates And the Mayor shall pay to the Scribe and village officer each one shilling (1s.) in each dollar he receives and retain two shillings (2s.) in the dollar for his own use. And at the end of each year the Mayor shall sue every person who has failed to pay village rates before the Police Court and on conviction a distress warrant shall be issued for execution upon the defaulter's chattels.

Village rates.

(Police Court. Mayor to prosecute.)

Chapter XX.

ROADS AND COMMONS.

508. Every person who holds an allotment shall keep clean and in good repair the Government road in front of his allotment and the owners of opposite allotments shall each keep clean and in good repair the half of the road nearest to his allotment.

Repair of roads.

509. Every Government road shall be at least forty eight feet wide : the Minister of Lands shall have power to cause new roads to be made.

Width of roads.

510. An inspection of all the Government roads shall be made on the last Monday in each of the following months : January March May July September November.

Inspection of roads.

511. Whoever shall fail to keep clean and in good repair his road frontage shall on conviction be liable to a fine of one shilling (1s.) for

Penalty for neglect.

every sixty feet so neglected and one shilling (1s.) for each large hole not filled up to be levied by distress.

(Police Court. Police to prosecute. No fees payable.)

Animals damaging road.

512. Should any animal make a hole in the road in front of any person's property such person shall fill up the hole but he may sue the owner of such animal for damages in the Civil Court.

(Police Court. Civil jurisdiction.)

Removal of trees.

513. Should any officer of Police inspecting roads direct any tree standing in the road or roadside to be cut down and such direction not be carried out before the next inspection the owner of the road frontage on which such tree stood shall on conviction be liable for every such tree to a fine of one shilling (1s.) to be levied by distress.

(Police Court. Police to prosecute. No fees payable.)

Government road frontages

514. The prisoners of the Crown shall keep the roads fronting Government property in repair as far as lies within their power.

Person convicted to repair road.

515. Whenever any person is convicted of neglecting to keep a road in repair the Magistrate shall order that in addition to his fine he repair the road in a satisfactory manner within one week from the date of his conviction.

Commons.

Weeding commons.

516. The Mayors shall apportion the work of keeping the village common clean among the taxpayers of the village and whoever shall neglect to weed the part of the common apportioned to him shall on conviction be liable to a fine of one shilling (1s.) to be levied by distress.

(Police Court. Police or Mayor to prosecute. No fees payable.)

Cemeteries.

Weeding cemeteries.

517. The members of every family shall keep in order the cemetery of the village in which they reside and any member of a family who shall neglect to comply with this provision shall on conviction be liable to the penalty provided in the last preceeding Section: Provided that nothing in this Section shall apply to the tombs of chiefs situated at a distance from any village.

Damaging graves.

518. Whoever shall damage or allow any animal belonging to him to damage any grave or headstone or memorial shall on conviction be liable to a fine of not exceeding fifty dollars ($50) or be imprisoned with hard labour for not exceeding six months in default of payment.

(Police Court. Police or injured person to prosecute. No fees payable.)

Burying in town forbidden.

519. It shall be unlawful to bury a dead body within the boundaries of any village without the written permission of the Minister of Police.

Cemetery for foreigners.

520. The Minister of Lands shall appoint places for cemeteries in every village and it shall be lawful to grant a lease of ground to trustees to be used as a cemetery for Europeans.

Chapter XXI.

OF MARRIAGE.

521. Marriage is a contract between man and woman to live together until the death of one of them and this contract is both a religious and civil rite. It shall be lawful for any person who has attained the age of sixteen years to marry but any person who shall marry before he has attained the age of sixteen years shall on conviction be liable to a fine of not exceeding fifty dollars ($50) or be imprisoned with hard labour for any term not exceeding three months in default of payment.

Nature of contract.

Penalty.

(Police Court. Police or Mayor to prosecute. No fees payable.)

522. It shall be unlawful to prevent any person who has attained the age of eighteen years from marrying but it shall be lawful for the parents or guardians of any person less than eighteen years of age to prevent such person from marrying until he or she attain the age of eighteen years.

Forbidding marriage.

523. A man may not marry his mother or sister or daughter or aunt or grandmother or grand-daughter and a woman may not marry her father or brother or son or grandfather or uncle or grandson.

Forbidden degrees.

Marriage Licenses.

524. Any person who intends to marry shall first obtain a certificate from the Mayor stating that there is no lawful impediment to his marriage and shall present such certificate to a Justice and if the Justice shall be satisfied with such certificate he shall forthwith grant a marriage license. The fees payable under this Section shall be two shillings (2s.) to the Mayor for the certificate and one shilling (1s.) to the Justice for the license.

Marriage license.

525. Every minister of religion who celebrates a marriage shall report such marriage together with the names and residences of the parties to the Clerk of the Supreme Court within twenty-one days from the date of the marriage and any minister who shall neglect to comply with the provisions of this Section shall on conviction be liable to a fine of fifty dollars ($50) to be levied by distress.

Registration and penalty.

(Police Court. Police to prosecute. No fees payable.)

526. Whoever shall attempt to mislead any Mayor or Justice with the intention of thereby obtaining a certificate or license whether he shall obtain such certificate or license or not shall on conviction be imprisoned with hard labour for any term not exceeding two years.

Obtaining license by fraud.

(Police Court. Mayor to prosecute. No fees payable.)

527. Whoever shall marry without first obtaining a license shall on conviction be liable to a fine of not exceeding fifty dollars ($50) or be imprisoned with hard labour for any term not exceeding six months in default of payment.

Marrying without license.

(Police Court. Police or Mayor to prosecute. No fees payable.)

528. Any person whether a minister of religion or otherwise who shall celebrate a marriage without being first provided with a license in accordance with the law shall on conviction be liable to a fine

Celebrating marriage without license.

of one hundred dollars ($100) or be imprisoned with hard labour for six months in default of payment.

(Police Court. Police to prosecute. No fees payable.)

DIVORCE.

Grounds for divorce.

529. It shall be lawful for any Justice of the Supreme Court to grant a dissolution of marriage upon proof by sworn evidence of either of the following causes :—

1. Adultery of the respondent.
2. A former husband or wife of respondent still living.

(Supreme Court without Jury. Person applying for divorce to sue.)

Adultery by both parties.

530. No decree shall be granted if it shall appear that both the petitioner and respondent have committed adultery.

No divorce if adultery condoned.

531. No decree shall be granted if it shall appear that the petitioner has cohabited with respondent since the respondent committed adultery with full knowledge of such adultery.

Collusion.

532. No decree shall be granted upon the respondent's evidence of adultery without independent evidence in corroboration.

Adultery pardoned.

533. No decree shall be pronounced if the petitioner shall have condoned the adultery of the respondent.

EXPLANATION.—It is the duty of the Justice to exhort the parties to live together again. No decree shall be granted except upon the strongest grounds, for divorce should be discouraged.

PROCEDURE IN SUITS FOR DIVORCE.

Procedure.

534. The procedure in suits for divorce shall conform to that laid down in Sections 168 to 185 inclusive. The evidence of both petitioner and respondent shall be given upon oath.

Two hearings necessary.

535. It shall not be lawful to pronounce a decree of divorce upon a single hearing. At the first hearing the evidence shall be taken and the case adjourned for one month. At the end of one month both parties shall again appear and shall be asked whether they can again cohabit or not or whether the petitioner can condone the respondent's adultery or not and if it shall appear impossible to reconcile the parties and the petitioner's petition be proved it shall be lawful to pronounce a decree of divorce.

Procedure in absence of respondent.

536. In any case where the respondent has left the Kingdom and cannot be summoned as a witness it shall be lawful for the Justice upon proof being adduced by the petitioner of the grounds of his petition to pronounce a decree of divorce. But if the respondent be in any part of the Kingdom the Court records shall be sent to the Justice of the Supreme Court in the district in which he resides and such Justice shall cause the respondent to appear before him and shall take his evidence upon oath and transmit his sworn statement to the Justice before whom the petition was first heard who shall pronounce judgment upon the case. Provided that in the islands of Niuafoou and Niuatobutabu the Police Magistrate shall have power to take such evidence to transmit to the Justice of the Supreme Court.

Divorced persons may marry.

537. Any person in respect of whom a decree of divorce has been pronounced shall be free to marry again.

Parties to retain effects.

538. Whenever a decree of divorce shall be pronounced each of the parties shall retain his own property.

ADULTERY.

539. Whoever shall commit adultery shall on conviction be liable to a fine of sixty dollars ($60) or be imprisoned with hard labour for not less than six months and not exceeding twelve months. And it shall further be lawful for the Magistrate to order him to pay to the injured husband or wife any sum not exceeding sixty dollars ($60) to be levied by distress.

Adultery.

(Police Court. Injured person or police to prosecute. Fees payable only in the former case.)

EXPLANATION.—The Magistrate must weigh the justice of ordering compensation to be paid to the injured person, for if he has deserted his wife and so occasioned her adultery he ought not to receive compensation.

540. Any married woman who shall commit adultery shall on conviction be liable to a fine of not exceeding sixty dollars ($60). Provided that it shall be lawful for the Minister of Police to commute such fine for a task of native manufacture to be completed by the woman at her own home within a specified time: And provided that if her husband shall pardon her and they again cohabit it shall be lawful to remit the punishment inflicted upon her.

Adultery by woman.

FORNICATION.

541. Should any unmarried man commit fornication with an unmarried woman he shall on conviction pay to the near relations of such woman the sum of twenty-five dollars ($25) or be imprisoned with hard labour for two months in default of payment.

Fornication. Penalty.

(Police Court. Relations of the woman or Police to prosecute. No fees payable in the latter case.)

542. It shall not be lawful to inflict the punishment of hard labour upon any woman who is pregnant but only a task of native manufacture.

Woman *enceinte* exempted.

543. Any woman who shall commit fornication shall on conviction be sentenced to a task of native manufacture equivalent to any sum not exceeding twenty-five dollars ($25) and any such woman who shall neglect to bring her appointed work to the Minister of Police within the time specified shall be imprisoned with hard labour for the remainder of her sentence at the rate of two shillings (2s.) for every day and the same alternative shall be adopted in the case of a woman sentenced to a task of native manufacture for adultery. *(Compare Section 540.)*

Penalty for woman.

544. Should any person convicted of fornication be willing to marry the woman with whom he was convicted and she consent they shall receive a remission of their punishment upon the day of their marriage.

Sentence remitted on marriage.

545. Any person charged with fornication or adultery may give evidence upon oath in his defence and the Magistrate shall receive his evidence.

Accused to be sworn.

546. Any man who shall solicit any woman to have improper intercourse with him shall on conviction be liable to a fine of not exceeding twenty dollars ($20) or be imprisoned with hard labour for not exceeding fourteen days in default of payment.

Soliciting intercourse.

(Police Court. Woman to prosecute. Fees payable.)

BASTARDS.

547. The mother of an illegitimate child shall support such child but she may sue the father of such child before the Police Court

Bastards.

for maintenance and upon proof of paternity the Magistrate shall order the father to pay to the Inspector of Police the sum of two shillings (2s.) weekly to be paid to the mother for the support of the child and whoever shall disobey any such order for maintenance shall be guilty of contempt of Court and on conviction shall be liable to a fine of ten dollars ($10) to be levied by distress.

(Police Court. Mother of bastard to prosecute. Fees payable.)

EXPLANATION.—An illegitimate child of a European father and a Tongan mother is a Tongan subject, but a half-caste whose parents were lawfully married belongs to the nationality of its father.

Chapter XXII.

DEFAMATION.

Defamation defined.

548. Defamation is speaking writing or printing anything damaging the reputation of another or bringing another into public hatred or contempt and any person who shall defame the character of another though not himself the author of the damaging statement shall be liable to an equal punishment with such author.

Two degrees.

549. Defamation shall be of two degrees and the Court shall determine to which degree the offence belongs.

First degree.

550. Whoever shall defame the character of the King or any member of the Royal Family or any Cabinet Minister or Noble or Governor or Magistrate or Representative of a Foreign State or Ordained Minister shall be guilty of defamation of the first degree and shall on conviction be liable to a fine of not exceeding one hundred and fifty dollars ($150) or be imprisoned with hard labour for any term not exceeding three years in default of payment.

(Supreme Court with Jury. Injured person to prosecute.)

Second degree.

551. Whoever shall defame the character of any person not occupying any of the positions detailed in Section 550 shall on conviction be liable to a fine of not exceeding twenty-five dollars ($25) or be imprisoned with hard labour for any term not exceeding three months in default of payment.

(Police Court. Injured person to prosecute. Fees payable.)

552, Whoever shall defame the character of any dead person shall be liable to the same punishment as if such person had been alive.

(Relations of dead person to prosecute. Fees payable.)

Privilege.

553. No person shall be convicted of defamation if the alleged slander was first uttered in a Court of Law or published in a newspaper.

EXPLANATION.—Any person charged with defamation who can prove that he only repeated a statement published in a newspaper shall be acquitted, but the person slandered may prosecute the publisher of the newspaper.

Chapter XXIII.

OF CONTRACTS.

554. Should any person agree to perform a service for or supply goods to another for which remuneration is agreed upon the persons so agreeing shall draw up a written agreement in duplicate in the Tongan language stating clearly:—(1) The nature of the service: (2) The remuneration (3) The date the service is to be completed: (4) The date on which the payment is to be completed.

Form of written contract.

555. Both persons shall sign such agreement in the presence of a Magistrate who shall then if he thinks the conditions can be fulfilled by both parties countersign and date such agreement and retain one copy delivering the other copy to the parties to the agreement.

Magistrate to countersign.

556. The fee for registering an agreement with a Magistrate shall be one shilling (1s.)

Registration fee.

557. It shall not be lawful to sue any person in any Court in the Kingdom for the breach of any agreement unless such agreement has been duly signed by a Magistrate.

No action to lie for breach of unregistered contract.

558. It shall be lawful for any Magistrate to refuse to sign and register any agreement if the terms of such agreement shall seem to him to be in contravention of any existing law or if the agreement shall appear to him to be beyond the power of either of the parties to perform.

Magistrate to have discretion.

EXPLANATION.—A, a European, contracted to build a house for B, a native, for which B was to pay two hundred dollars within three months. If the Magistrate considers that B connot raise that sum within three months he may refuse to countersign the contract.

559. In the case of a contract to supply a vessel to natives proof shall be given to the satisfaction of the Magistrate that at least half the purchase money has been collected and is in the hands of a responsible person before he shall countersign the contract.

Purchase of vessels.

560. Should either party to an agreement countersigned by a Magistrate fail to perform his share of such agreement he may be sued in the Civil Court for breach of agreement and costs and should such breach of agreement consist in not completing work agreed upon the Magistrate may order him to pay to the plaintiff a sum sufficient to defray the cost of the completion of such work by another together with the costs of the suit.

Breach of registered contract.

(Police Court. Civil Jurisdiction. Fees payable.)

Chapter XXIV.

OF TRADING LICENSES.

Trading.

561. It shall be unlawful to sell or barter in any building or vessel or vehicle or sell goods by auction or act as a commission agent or baker or butcher or keep a billiard table for profit without first obtaining a license therefor in accordance with the provisions of this Chapter.

Licenses issued by Customs Officer.

562. Any officer of Customs shall have power to issue licenses to trade in the district in which he is stationed.

Penalty.

563. Whoever shall sell or barter in any building or vessel or vehicle or sell goods by auction or act as a commission agent or baker or butcher for profit without first obtaining a license therefor after the expiration of the first seven days of January or of April or of July or of October in any year shall on conviction be liable to a fine of not exceeding one hundred dollars ($100) for each offence or be imprisoned with or without hard labour for not exceeding six months in default of payment.

(Police Court. Police to prosecute. No fees payable.)

Not transferable.

564. Licenses issued under this Chapter are not transferable.

Term of license

565. Licenses shall be issued for the day or quarterly or annually and such quarters shall commence on the first day of January or April or July or October and expire on the thirty-first day of March or the thirtieth day of June or the thirtieth day of September or the thirty-first day of December and such licenses shall be in such form as the Premier shall direct.

Quarterly only

566. The same fee shall be charged for a license issued during a quarter as for a whole quarter.

Exception.

567. It shall not be lawful to issue a license to any person who is in arrears with his taxes.

Towns.

568. The following shall be deemed to be towns under this Chapter: Nukualofa in Tongatabu Pangai and Hihifo in Lifuka Haapai and Neiafu in Vavau.

Districts.

569. The following shall be deemed to be districts under this Chapter: Tongatabu Haapai Vavau Niuafoou and Niuatobutabu.

Onus probandi.

570. The burden of proof of not having violated any of the provisions of this Chapter shall rest with the accused.

Purchasing from unlicensed person.

571. Any person who shall purchase anything from any person not licensed to sell knowing him to be unlicensed shall on conviction be liable to the same penalty as such unlicensed person.

General penalty.

572. Whoever shall violate any of the provisions of this Chapter shall on conviction be liable to the penalty provided in Section 563.

(Police Court. Police to prosecute. No fees payable.)

TRADING LICENSE.

573. It shall be unlawful to sell or barter anything for profit without first obtaining a Trading License. Definition of trading.

574. Such license shall be of two kinds— License, wholesale or retail.

(1) Wholesale Trading License.
(2) Retail Trading License.

But such license shall not include a Hawker's license or a license to sell bread or fresh butcher's meat or spirituous liquors or to exercise any calling included in any other license.

575. Any person or syndicate having more than one store shall obtain a wholesale license for one store and a retail license for each store in addition. Trading companies.

576. The fee for a wholesale trading license for a term of one year shall be— Wholesale fee.

In the town: seventy dollars ($70).
In the country: fifty dollars ($50).

577. The fee for a retail trading license for a term of one year shall be— Retail fee.

In the town: twenty-five dollars ($25).
In the country: twenty dollars ($20).

578. Should more than one person be interested in a store they shall be liable to pay for one license only. Partnerships.

579. Any master or officer of any vessel selling goods on shore in any house other than that which is licensed as a store shall be required to take out a trading license for such house. Master of vessels trading.

LICENSE FOR BUYING FRUIT, COPRA, &c.

580. Whoever shall purchase Copra Coffee Oranges Bananas Pine-apples Oil or other such produce with the intention of selling it again shall whether he has a store or not first obtain a license therefor unless he holds a store license. Fruit buyers.

581. The fee for a license to buy fruit for the term of one year shall be twenty dollars ($20). Fee.

HAWKER'S LICENSE.

582. Whoever shall engage in hawking goods shall first obtain a license therefor and selling from a vehicle horse boat or pack shall be deemed to be hawking Provided that such license shall not empower the holder to sell goods in any building. Definition of hawker.

583. No hawker's license shall empower the holder to sell intoxicating liquors. Restriction.

584. The fee for a hawker's license for the term of one year shall be ten dollars ($10). Fee.

585. Every person hawking goods shall obtain a license whether he is employed by another or not. License to be personal.

AUCTIONEER'S LICENSE.

586. No person shall sell by auction any goods whether belonging to him or to another without first obtaining a license therefor, Auctioneer's licenses.

Provided that nothing in this Section shall apply to a person selling goods on behalf of the Government.

Fee.

587. The fee for an Auctioneer's license for the term of one year shall be thirty dollars ($30).

Temporary license.

588. It shall be lawful to issue an Auctioneer's license available for one day for which the fee shall be five dollars ($5).

BILLIARD-TABLE LICENSE.

Billiard-table.

589. Whoever shall keep a Billiard-table for hire shall first obtain a license therefor and whoever shall keep a Restaurant in which there is a Billiard-table to be used by persons not in possession of such Restaurant shall be deemed to keep a Billiard-table for hire.

Restriction.

590. It shall not be lawful to use any Billiard-table in any place of amusement or public-house upon the Sabbath or to use such table after midnight upon week-days.

Fee.

591. The fee for a Billiard-table for the term of one year shall be ten dollars ($10).

BAKER'S LICENSE.

Baker's license.

592. It shall not be lawful to bake bread for sale or sell leavened bread without first obtaining a license therefor.

Fee.

593. The following shall be the fee for a Baker's license for the term of one year :—

In the town : ten dollars ($30).
In the country : six dollars ($6).

Syndicates.

594. Should more than one person be engaged in baking bread for sale in one store only they shall obtain one license only but should any person or persons bake bread for sale and sell bread in more than one store they shall obtain a license in respect of each store in which they sell bread.

Selling license.

595. Whoever shall sell leaven bread purchased from another and not baked by himself shall first obtain a license therefor for which the following fee shall be paid :—

In the town : five dollars ($5).
In the country : three dollars ($3).

BUTCHERS LICENSE.

Butcher's license.

596. Whoever shall sell fresh meat shall first obtain a license therefor.

Selling unwholesome meat.

597. Whoever shall sell any meat of an animal not slaughtered or diseased or otherwise unfit for human food shall on conviction be liable to a fine of not exceeding fifty dollars ($50) or be imprisoned for any term not exceeding two months in default of payment.

(Police Court. Police to prosecute. No fees payable.)

Fee.

598. The following shall be the fee for a Butcher's license for the term of one year :—

In the town : ten dollars ($10).
In the country : six dollars ($6).

Temporary license.

Whoever shall desire to slaughter one animal only may obtain a license available for one day for the sale of the meat of such animal for which he shall pay a fee of two dollars ($2).

Chapter XXV.

OF ARMS.

599. It shall be unlawful to sell or give away or trade in any description of firearms or ammunition without first obtaining an Arms Trading License and such license may be issued for six months at a fee of fifteen dollars ($15) or twelve months at a fee of thirty dollars ($30) by the Chief Officer of Customs at any port of entry or by any other officer duly appointed in that behalf by the Premier and such licenses shall expire on the last day of June and December respectively and such licenses shall not enable the holder to sell arms or ammunition to any person not holding a gun license in accordance with the Section next following. Provided that nothing in this Section shall prevent a licensed auctioneer from selling arms by public auction to a person holding a gun license and provided also that the King may at any time by proclamation prohibit trading in arms whereupon all existing licenses shall be cancelled and no Arms Trading Licenses shall be issued until such prohibition be withdrawn and whoever shall infringe any of the provisions of this Section shall on conviction be liable to a fine of not exceeding one hundred dollars ($100) or be imprisoned with or without hard labour for any term not exceeding three months in default of payment.

Arms trading licenses.

Auctioneer excepted.

Prohibition of arms.

Penalty.

600. It shall be unlawful for any person not holding an Arms Trading License to have in his possession any description of firearm or ammunition without first obtaining from the Chief Officer of Customs at any port of entry or other officer duly authorized a Gun License which shall be issued for one year and expire on the last day of December and for each firearm held by such person there shall be paid an annual fee of one dollar ($1). Provided that the King may at any time by proclamation suspend all existing Gun Licenses and prohibit the issue of new Gun Licenses until such suspension be withdrawn and any person who shall infringe the provisions of this Section shall on conviction be liable to a fine of not exceeding ten dollars ($10) or be imprisoned with or without hard labour for not exceeding one month in default of payment. Provided that nothing in this Chapter shall apply to arms or ammunition required by any public officer in discharge of his duty.

Gun license.

Suspension of licenses.

Penalty.

Army, &c., excepted.

601. It shall be lawful for any public officer duly authorized thereto by the Minister of Police to demand inspection of any license issued under this Chapter and upon reasonable suspicion to search for and seize arms and ammunition on the premises or in the possession of any person not producing a license to possess such arms and in the event of Gun Licenses being suspended by proclamation as hereinbefore provided any such officer may require all holders of licenses to deliver their arms to him for custody until such suspension be withdrawn and may search for and seize any arms and ammunition not delivered to him upon demand using force if necessary and such arms and ammunition shall be forfeited to the Crown.

License to be produced.

Prohibition of arms.

Seizure of arms.

Chapter XXVI.

INTOXICATING LIQUORS.

Wholesale liquor license.

602. It shall be lawful for the Minister of Police with the consent of the Cabinet to authorise any Customs Officer to issue to any person a license to sell liquor wholesale.

Definition of wholesale liquor license.

603. It shall be lawful for any person holding a wholesale liquor license to sell ardent spirits wines ale and other fermented and spirituous liquors: Provided that such liquors shall not be drunk on the premises where they shall be sold or in any house owned or rented by the licensee or any of his agents and provided that such liquors shall not be sold in quantities of less than two gallons.

Period of license.

604. The fee for a license under the last preceding Section shall be forty dollars ($40) for a term of one year and it shall be lawful to pay for such license for the year or for the quarter and licenses issued for the quarter shall expire by the thirty-first day of March or the thirtieth day of June or the thirtieth day of September or the thirty-first day of December respectively. And any person obtaining a license during a quarter shall pay the fee due for the entire quarter.

Custom Officer to issue license.

605. All fees for licenses shall be paid to the Officer of Customs of the district in which the licensee resides.

Penalty.

606. Whoever shall sell any intoxicating liquor or shall sell intoxicating liquor in a smaller quantity than two gallons to any person or shall permit any intoxicating liquor he has sold to be consumed on his premises without first obtaining a license therefor shall on conviction be liable to a fine of not exceeding twenty-five dollars ($25) or be imprisoned for any term not exceeding three months in default of payment.

(Police to prosecute).

Distiller's License.

Distilling.

607. It shall be unlawful to distil any spirituous liquor or make any intoxicating liquor without first obtaining a license therefor and the fee for such license for the term of one year shall be one thousand dollars ($1,000). And whoever shall infringe any of the provisions of this Section shall on conviction be liable to the penalty provided in the last preceding Section.

Public Houses.

Application for license.

608. It shall be lawful for the Cabinet to authorise any chief officer of Customs to issue licenses for public-houses at Nukualofa and Lifuka and Neiafu and whoever shall wish to obtain such license shall make application in writing to the Minister of Police stating the dimensions and the number of appartments of the building in respect of which his application is made.

609. The fee for each Public-house license for the term of one year shall be one hundred dollars ($100) and the fee for selling liquor in any vessel (packet license) for the term of one year shall be one hundred dollars ($100). Fee

610. It shall not be lawful to sell any goods or exercise any calling for profit in any building in respect of which a Public-house license has been issued. Limitation.

611. Public-house licenses may be issued for the year or for the quarter and such quarters shall end upon the thirty-first day of March or the thirtieth day of June or the thirtieth day of September or the thirty-first day of December and any person who shall obtain a license during any quarter shall pay the fee due for the entire quarter. Period of license.

612. Whoever shall hold a Public-house license shall produce such license whenever required for inspection by any Officer of Customs or any Inspector or Sergeant of Police. License to be produced.

613. It shall not be lawful for any person holding a Public-house license to sell intoxicating liquor at any hour other than from 5 o'clock a.m. to 10 o'clock p.m. Hours for sale.

614. It shall be lawful for any Officer ot Police to enter any public-house at any hour within those specified in the last preceding Section and to enter any department to inspect and take an inventory of all the intoxicating liquor he may find there and to take samples of liquor from any cask jar or bottle for analysis. Provided that such sample be sealed by the licensee and that all necessary expenses in connection with such analysis be defrayed by the Government. Inspection of public-houses.

615. Any Officer of Police may seize and convey to the nearest Police Magistrate all liquor which he may reasonably suspect to be carried about or exposed for sale in any road tent store or vessel by any person not holding a license to sell such liquor therein respectively and to stop and seize any vehicle or animal having such liquor and such Magistrate shall issue a summons to the owner of such liquor to appear and if it shall appear that such liquor was intended for sale it shall be forfeited to the Government and the owner thereof shall be liable to a fine of not exceeding two hundred and fifty dollars ($250) or be imprisoned for any term not exceeding three months in default of payment. Liquors exposed for sale to be seized

(Police Court Police to prosecute.)

616. It shall be lawful for any person holding a Public-house license to expel from such Public-house any person who is intoxicated or creating a disturbance or using foul language or suffering from a contageous or infectious disease or any prostitute. And whoever shall neglect to leave such Public-house at the request of the proprietor or manager in accordance with the provisions of this Section shall on conviction be liable to a fine of not exceeding twenty-five dollars ($25) or be imprisoned for any term not exceeding one month in default of payment. Disorderly person.

617. It shall be the duty of every Police Officer to assist in expelling any disorderly person from a Public-house at the lawful request of the proprietor or manager. Police to assist.

618. It shall be unlawful to permit any disturbance in a Public-house or to serve any intoxicated person with liquor. Permitting disturbance.

F

Searching unlicensed premises.

619. Should any Officer of Police or other person have reason to believe that liquor is sold or has been sold in any unlicensed premises he may lay information upon oath before any Police Magistrate and upon reasonable grounds being shown for such suspicion such Magistrate may grant a warrant to any Officer of Police to enter and search the premises specified in the warrant and such Constable may break open any doors not opened within a reasonable time after demand and may seize all liquors which he shall then and there find and convey them to the Police Magistrate and such Magistrate shall issue a summons calling upon the occupier of such place to appear before the Court to show how and for what purpose he came by such liquor and if he should fail to appear the Magistrate shall take the evidence for the prosecution and if he shall be satisfied by reasonable proof that any liquor was in such place for the purpose of being illegally sold he shall order such liquor to be forfeited to the Government and to be sold or destroyed and if sold the proceeds shall after deducting all costs of sale be paid into the Treasury.

Harbouring disorderly persons.

620. It shall be unlawful for any person holding a Public-house license to permit any prostitute or notorious thief or intoxicated or disorderly person to remain on his premises.

Penalty.

621. Whoever shall infringe any of the provisions relating to public-houses shall on conviction be liable to a fine of not exceeding two hundred and fifty dollars ($250) or be imprisoned for any term not exceeding three months in default of payment.

(Police Court.)

Suspension of license.

622. Should any penalty be inflicted under this Chapter upon any person holding a public-house license it shall be lawful for the Minister of Police to order his license to be suspended temporarily or cancelled as may seem proper and should any public-house be habitually disorderly or should any public-house keeper habitually infringe the provisions of this Chapter it shall be lawful for the Minister of Police to direct the Chief Officer of Customs not to renew the license in respect of such public-house after the expiration of such license.

Giving Liquor to Natives.

Penalty for giving liquor to natives.

623. Whoever shall give any intoxicating liquor to any Tongan Pacific Islander or Indian whether he holds a license to sell liquor or not shall on conviction be liable to a fine of not less than two hundred and fifty dollars ($250) and not exceeding five hundred dollars ($500) or be imprisoned for any term not less than three months and not exceeding six months in default of payment.

(Police Court.)

Exception.

624. Nothing in the last preceding Section shall be held to apply—

(1) To a minister of religion giving wine for any religious rite.

(2) To a medical man giving liquor in doses or promoting restoration to health.

(3) To a person supplying liquor to a native holding a permit signed by the Minister of Police.

(4) To the servant of any European who bears an order signed by such European for liquor for his own use Provided that such order shall be retained for one year and that the person supplying liquor shall initial such order and endorse the date on which the liquor was so supplied.

625. Whoever being a Tongan or Pacific Islander or Indian who shall drink any intoxicating liquor whether he has purchased such liquor or not without first obtaining a written permit from the Minister of Police shall on conviction be liable to a fine of twenty-five dollars ($25) or be imprisoned to hard labour for any term not exceeding three months in default of payment.

Penalty for native drinking liquor.

(Police Court.)

626. Whoever shall write any order with the intention that any Tongan Pacific Islander or Indian shall thereby obtain intoxicating liquor shall on conviction be imprisoned for any term not exceeding three months.

Forging order.

(Police Court.)

627. Any publican or other person who shall neglect to keep the liquor on his premises in such a manner as to prevent easy access thereto by Tongans Pacific Islanders or Indians so that any such native steals or obtains such liquor shall on conviction be liable to a fine of not exceeding twenty-five dollars ($25) or be imprisoned for any term not exceeding seven days in default of payment.

Neglecting to secure liquor.

628. Should any person give such information as shall lead to the conviction of any person upon a charge of giving liquor to a native it shall be lawful for the Premier to order any portion of the fine that may be paid to be given to such informer.

Informer to be rewarded.

HABITUAL DRUNKARDS.

629. It shall be lawful for the relations of any habitual drunkard or for any Officer of Police to make application to a Police Magistrate to prohibit all publicans or persons holding licenses from selling liquor to or serving such habitual drunkard with liquor and the Magistrate upon satisfactory proof that such person is an habitual drunkard shall issue such prohibition and should any person disobey any such prohibition it shall be lawful for the Minister of Police to order his license to be cancelled.

Habitual drunkards.

Chapter XXVII.

CUSTOMS REGULATIONS.

630. In the construction and for the purposes of this Chapter the following words within inverted commas shall have the meanings by this Section assigned to them if consistent with the context :—

General definitions.

"*Vessel*" "*Boat*" or "*Ship*"—Anything made or used to carry by water or to have hold or contain on water any human being or any goods or property whatsoever.

"*Goods*"—Any animal money bills notes bonds or any movable property of any kind whatsoever.

"*Owner*"—The actual owner of any goods or his agent or the consignee of any goods or his agent.

"*Proper Officer*" "*Officer of Customs*"—Any person duly appointed and employed to carry out or to assist to carry out any of the provisions of this Chapter or any duty connected with this or any other Chapter now in force orthat

may hereafter be in force for the collection of Customs dues or wharfage rates.

"*Home Consumption*"—The use or employment of any goods in the Kingdom.

"*Coastwise*"—From one port of entry to another port of entry in the Kingdom.

"*Intact*"—Means with reference to goods conveyed or delivered by any person that such goods are in the condition in which they were received by such person.

"*Package*"—Any case or sack or covering in which goods are packed or enclosed.

"*Master*"—Any person (except a pilot) having charge of any vessel boat or ship.

"*Dutiable Goods*"—All goods subject to the payment of duty and on which duty has not yet been paid.

General administration.

631. The Premier of the Kingdom for the time being shall be charged with the general administration of this Chapter.

Appointment of officers.

632. It shall be lawful for the Premier to appoint from time to time a Collector of Customs for any port of entry or such other officers as may be necessary from time to time to carry into effect the provisions of this Chapter and any officers so appointed shall receive such salary as may from time to time be determined by the Premier with the advice and consent of the Privy Council and shall receive such emoluments for executing the duties of their respective offices in overtime of such amount and under such regulations as the Premier with the sanction of the Cabinet may permit and any officer receiving any fee or reward without such permission on account of anything done or omitted to be done by him in relation to his office or employment shall be dismissed from office.

Ports of Entry.

Ports of entry.

633. The Premier may from time to time by proclamation in the Gazette appoint any place that may be expedient within the Kingdom as a port of entry where dutiable goods may be landed stored shipped or transhipped and where vessels may be entered and cleared and any other thing done that is required under this Chapter to be done at a port of entry. Such proclamation shall state the limits of such port of entry and may appoint any place therein where dutiable goods shall be landed and any place where vessels arriving at or departing from such port of entry shall bring to for the purpose of receiving on board or of landing any Officer of Customs. The Premier may also by like proclamation direct that any port of entry shall after a date to be specified in such proclamation cease to be a port of entry under this Chapter.

Arrival and Entry Inwards of Vessels.

Vessels arriving in the Kingdom to make direct for a port of entry.

634. The Master of any vessel arriving in the Kingdom shall not anchor his vessel at any place not a port of entry nor delay unnecessarily after having entered the waters of the Kingdom in making for the port of the Kingdom to which the vessel is bound.

Customs Officer may board vessel arriving in waters of the Kingdom.

635. On the arrival of any vessel within the waters of the Kingdom any Officer of Customs may at any place and at any time proceed on board such vessel and if by boat the display by such Officer of a flag of not less dimensions than four feet by two feet with the upper horizontal half blue and containing the Tongan Jack and the

lower horizontal half white with the letters "H.M.C." conspicuous thereon shall be deemed sufficient proof of the authority of such Officer and any person other than an Officer of Customs displaying such a flag shall be liable to a penalty not exceeding two hundred and fifty dollars ($250) or in default of payment to imprisonment for a term not exceeding two months.

636. The Master of any vessel arriving in the Kingdom who shall refuse to receive any Officer of Customs at any place on board such vessel or who shall refuse or neglect to bring his vessel to when hailed by any Officer of Customs in any boat as provided in the last preceding Section or by the Master of any vessel employed for the prevention of smuggling or used in any other way for carrying out the provisions of this Chapter and having a proper pennant and ensign hoisted shall be liable to a penalty not exceeding one thousand dollars ($1,000) nor less than two hundred and fifty dollars ($250) or in default of payment to imprisonment for a term not exceeding six months nor less than one month.

Vessel to bring to and receive Customs Officer on board.

637. On the arrival of any Officer of Customs on board any vessel as provided in the two last preceding Sections the Master of such vessel shall if required so to do provide the said Officer with suitable sleeping accommodation in the cabin of such vessel and shall supply such accommodation to the said Officer as long as such Officer shall remain on board.

Sleeping accommodation for Customs Officer.

638. Any Officer of Customs going on board any vessels as hereinbefore provided may remain thereon until all goods shall have been duly discharged or until her departure and may demand all the papers of such vessel and shall have free access to every part thereof and may search for any goods in any part of such vessel and may require the Master of the same to remove any hatchway or to open any door compartment or place or any trunk box chest or package of any kind that in the opinion of such Officer of Customs could contain any goods and if the Master aforesaid shall refuse to comply with such request the said Officer of Customs may break open or cause to be broken open any hatchway door compartment or place or any trunk box chest or package of any kind and any dutiable goods found concealed therein or any goods packed in the same packages with or used to conceal such dutiable goods shall be forfeited. Such Officer may also fasten down any hatchway and secure any store-room cabin place or compartment and may seal mark or otherwise secure any goods on board such vessel and if the said Officer shall place any lock mark fastening or seal upon any hatchway store-room cabin place or compartment or on any goods or ship's stores or on any package on board and if so long as the said vessel is within the waters of the Kingdom such lock mark fastening or seal be opened altered or broken by any person without the consent and authority of an Officer of Customs or if any goods or ship's stores be secretly conveyed away or removed from any place where they were secured by the said Officer or if any hatchway after being fastened down as aforesaid or if any store-room cabin place or compartment after being secured as hereinbefore provided be opened without the consent and authority of an Officer of Customs or if the Master of any vessel refuses to deliver to any Officer of Customs all the papers of such vessel on demand as aforesaid the Master of such vessel shall for every such offence be liable to a penalty not exceeding one thousand dollars ($1,000) nor less than one hundred and twenty-five dollars ($125).

Officer may search vessel secure compartments and mark goods.



No goods to be removed from vessel until entered at Customs.

639. No goods or ship's stores shall be landed transhipped or removed in any way whatever from any vessel approaching or arriving in the Kingdom after such vessel shall have arrived within four leagues of the coast of the Kingdom nor shall bulk be broken nor any goods or cargo be restowed on such vessel so as to facilitate the unlading of such goods or their removal from such vessel until permission shall have been given by the proper Officer of Customs for such landing transhipment or removal as hereinafter provided and the Master of any vessel from which any goods or ship's stores are landed transhipped or removed without permission as aforesaid or on which bulk is broken or any goods or cargo restowed as hereinbefore mentioned and any person receiving such goods or assisting to remove the same from any vessel or from any place after removal from any vessel shall be liable to a penalty of not exceeding one thousand dollars ($1,000) nor less than two hundred and fifty dollars ($250) and in default of payment to imprisonment for a term not exceeding six months nor less than two months and any goods so removed or received shall be forfeited to the Crown as well as any boat cart dray animal or other conveyance found by any Officer of Customs receiving or removing the same.

Entry inwards to be made within twenty-four hours.

640. The Master of any vessel arriving from beyond the Kingdom shall within twenty-four hours after arrival in any port of entry unless prevented by the operation of any quarantine law proceed to the Custom House and shall there produce for examination by the proper Officer unless previously transmitted thither the vessel's clearance from the last port of departure the shipping bills and stores list the certificate of registry the list of passengers on board and the manifest of the cargo of such vessel and also the bill of lading or a copy thereof for every part of the cargo on board the vessel's log-book and the crew's articles of agreement and shall subscribe a declaration or declarations and answer any reasonable question in respect of each or any of these matters or connected with the last voyage of the vessel on oath or otherwise.

Officer may require dutiable goods to be properly secured.

641. If in the opinion of any Officer of Customs any hatchway door lid cover partition or any other article on any vessel containing dutiable goods is defective in any way in whole or in part and not adapted to afford sufficient security or protection to any dutiable goods on board such vessel the Officer aforesaid shall deliver to the Master of the vessel a note in writing requesting that any defect as hereinbefore mentioned be supplied and remedied within a time to be specified therein and if any reasonable request so made is not complied with within a reasonable time the Master aforesaid shall on conviction be liable to a fine of not exceeding five hundred dollars ($500) nor less than one hundred dollars ($100) or in default to imprisonment for a term not exceeding three months nor less than seven days.

Master of wrecked vessel to report.

642. Whenever any vessel shall be wrecked at any place within the Kingdom the Master thereof if landed in the Kingdom shall as soon as possible make a report of such vessel as far as practicable in accordance with the provisions of Section 640 hereof.

Vessel arriving for orders.

643. Should any vessel arrive in any port of entry from beyond the Kingdom for orders and the proper Officer be satisfied that such vessel has arrived for orders only it shall be lawful to exempt such vessel from pilotage and light dues. Provided that it shall be unlawful for any vessel arriving for orders only to land any goods whatever or to load any goods excepting ship's stores not including spirits or tobacco.

Import Entries for Goods.

644. Forms to be called "Import Entries" shall be prepared according to a formula and of dimensions to be from time to time prescribed by the Premier and shall be adapted to meet (1) the transhipment of any dutiable goods coastwise (2) the transhipment of any dutiable goods foreign (3) the removal of any dutiable goods to a Government bonded warehouse for storage therein (4) the payment of duty on goods for home consumption (5) the removal from any vessel of any goods not liable to the payment of duty (6) the removal of any goods to a Custom House at the expense of the owner or consignee for inspection by a Customs Officer in the event of there being no invoice for such goods or when the Collector or other proper Officer of Customs is not satisfied with the invoice produced for such goods and any such entry when signed by the Collector or other chief Officer of Customs at any port shall be transmitted to the proper Officer and shall be his warrant for the delivery or reception of the goods mentioned therein as the case may be. Any Officer of Customs may refuse to receive or to pass any import entry until the vessel referred to in such import entry has been entered inwards as hereinbefore provided and unless such import entry is according to the prescribed formula or to the same effect and of the same dimensions and unless the required number of copies is produced and no goods shall be removed from the control of the Officers of Customs until the proper entry shall have been passed for such goods and permission granted by the proper Officer of Customs for such removal and any goods removed from any ship or from any Government bonded warehouse without such permission and unless the proper entry shall have been duly passed therefor shall be forfeited to the Crown.

Import entries of six kinds.

645. The owner of any goods shall fill up an import entry for any goods imported by any vessel for transhipment on board any other vessel or to be landed in the port where such vessel may be lying within twenty-four hours after such vessel has been reported by the Master thereof as hereinbefore provided if the amount of goods on board such vessel for the owner aforesaid is under fifty tons by weight or measurement and within forty-eight hours if the amount of such goods exceeds fifty tons but if the import entries for any goods aforesaid have not been presented at the Custom House of the port where the said vessel is lying within the above periods respectively then the Master or Agent of the vessel aforesaid may present the entries at the Custom House and it shall be lawful for the proper Officer to deal with such import entries as if they had been presented by the owner of such goods.

Import entries to be passed within forty-eight hours.

646. On passing an import entry for the transhipment of any dutiable goods coastwise the owner of such goods shall sign a bond which shall be in a form to be approved by the Premier in a sum not less than once the value of the goods to be transhipped as estimated by the proper Officer of Customs with twice the duty payable on such goods added thereto and the owner of such goods shall also find the personal security of one or more persons to be approved by the chief Officer of Customs at any port that such goods will be duly transhipped to the vessel mentioned in the said bond and that they will be conveyed direct and intact to some port of entry in the Kingdom specified in such bond and that they will be duly reported to the Customs authorities there and an import entry passed for them as if they had arrived in that port direct from beyond the Kingdom.

Bond for transhipment of dutiable goods coastwise.

Bond for transhipment of dutiable goods foreign.

647. On passing an entry for the transhipment of any dutiable goods foreign the owner of such goods with one or more persons to the satisfaction of the proper Officer of Customs shall enter into a bond which shall be in a form to be approved by the Premier and for a sum not less than once the value of the goods to be transhipped as estimated by the proper Officer of Customs with twice the duty payable on such goods added thereto that such goods will be removed direct to the vessel specified in such bond as about to export the said goods that the said vessel will proceed on her course from the port of entry where such goods are put on board such vessel out of the Kingdom without coming to anchor at any spot therein except at a port of entry and without any unnecessary delay and that such goods will not be removed from such vessel nor landed or transhipped at any place within the waters of the Kingdom except under the supervision and with the permission of the proper Officer of Customs but will be landed or transhipped at the ports or places mentioned in the bond aforesaid.

Bond for removal of dutiable goods to bonded warehouse.

648. On passing an import entry for the removal of any dutiable goods from any vessel to a Government bonded warehouse the owner of such goods shall enter into a bond in a form to be approved by the Premier in a sum not less than once the value of the goods concerned as estimated by the proper Officer of Customs with twice the duty payable on such goods added thereto that such goods will be conveyed direct and intact from the vessel importing them to the Government bonded warehouse specified in the bond aforesaid and duly lodged therein and that such goods will not be removed from the said Government bonded warehouse except as hereinafter provided and with the permission of an Officer of Customs.

Permit for landing goods before passing import entries.

649. When all particulars affecting any vessel shall have been made known to the proper Officer of Customs as provided in Section 640 hereof such Officer may then in special cases on the approval of the Premier grant a warrant in writing to the Officer of Customs on board of such vessel to permit the landing of any goods therefrom for which import entries have not been passed or on which Customs dues have not been paid and the storing of the same at the risk and expense of the owner of such goods or of the Master or the Agent of the vessel as may be agreed upon and in such place and in such manner and subject to such terms and conditions as may have been previously approved by the Premier.

Bond for landing goods before passing import entries.

650. Before any permit is granted as provided in the last preceding section for the landing of any goods from any vessel without previously passing import entries therefor or on which Customs dues have not been paid the owner of such goods or the Master or Agent of the vessel importing such goods shall enter into a bond in a form and for a sum to be approved by the Premier and with such other additional security for the payment of duties and other charges as may by the Premier be deemed necessary that the goods aforesaid shall under the supervision and control of the Officers of Customs be conveyed direct from such vessel to some place previously approved by and secured to the satisfaction of the Premier and specified in such bond and that the said goods shall remain there under the supervision and control of the Officers of Customs as aforesaid but at the risk and expense of such owner or of such Master or Agent and such other additional personal security as may have been demanded until import entries shall have been passed for the same as hereinbefore provided and that such import entries shall be passed and all dutiable goods removed from such place as aforesaid within a date to be specified in such bond which shall

however not exceed fourteen days and that all goods whether dutiable or non-dutiable landed from any vessel as aforesaid shall until such entries are passed or until they are removed under proper authority to a Government bonded warehouse be kept intact and secure under lock and key in a separate store or compartment which shall contain no other goods than goods landed under a permit as provided in this Section.

Removal of goods from receiving store.

651. When an import entry has not been passed for any dutiable goods or for any goods supposed by an Officer of Customs to be wholly or in part liable to the payment of duty landed as aforesaid into a receiving-shed within forty-eight hours after such landing such dutiable or supposed dutiable goods shall at the expense of the owner thereof be removed to a Government bonded warehouse where if import entries are not passed they shall be detained at the expense of the owner of such goods and shall be liable to all provisions of this Act affecting goods in bond until an import entry shall have been duly passed therefor save only that the amount of bond rent payable on such goods shall until the proper entry is passed for the same be three times that payable on goods received therein after the proper entries have been passed and on any goods not liable to the payment of duty and not removed from such receiving store within forty-eight hours there shall be paid by the owner for storage a sum three times greater than the authorised charges for the detention of goods in any Government bonded warehouse.

The landing of passengers' luggage.

652. The Premier shall from time to time determine what articles and what quantity of such articles liable to duty under any law now in force or that hereafter may be in force in the Kingdom shall when introduced into the Kingdom as passengers' luggage be exempt from the payment of duty and for all such articles exceeding the quantity so allowed there shall before such articles are removed from any vessel be passed an import entry and duty paid thereon by the owner of such articles in the manner hereinbefore provided or a bond entry shall be passed for such articles and the same deposited in a Government bonded warehouse as hereinbefore provided and any neglect or refusal to pass such import or such bond entry as aforesaid shall render the person importing any such article into the Kingdom or in whose possession the same may be found by any Officer of Customs liable to a penalty not exceeding one hundred and twenty-five dollars ($125) nor less than five dollars ($5) and in default of payment to imprisonment for a term not exceeding one month nor less than two days and any such articles so found as aforesaid shall be forfeited to the Crown.

GOVERNMENT BONDED WAREHOUSES.

Premier may appoint Government bonded warehouse.

653. It shall be lawful for the Premier by notification in the Gazette to appoint at any port of entry any building to be a Government bonded warehouse for the reception and securing of any dutiable goods and for the receiving storing and delivering of such goods there shall be paid before such goods are removed by the owner thereof from such Government bonded warehouse such fees as the Premier with consent of the Privy Council may from time to time determine together with all duties or other charges leviable on the same under any Act in force at the time of such removal.

Dangerous goods may not be received in Go-

654. It shall be lawful for any Customs officer in charge of any Government bonded warehouse to refuse to admit any goods for storage therein if he considers that such goods cannot be placed there

vernment bonded warehouse.

without causing damage either to the building itself or to any other goods therein or likely to be received therein. If any goods as aforesaid are left at or near to any Custom House wharf or Government bonded warehouse after any officer of Customs has refused to receive such goods into any Government bonded warehouse and if on the request of the said officer to the person bringing the said goods to or near to such Custom House wharf or Government bonded warehouse such goods are not removed within a time specified by the officer of Customs aforesaid and duty paid thereon before such removal it shall be lawful for such officer to cause such goods to be sold and from the proceeds of the sale thereof to deduct any duty or any other charges payable to the Crown on account of such goods, and if the goods as aforesaid cannot be sold such officer may cause them to be destroyed and no claim shall lie against such or any other officer or against the Crown on account of such destruction or on account of any damage arising from the loss or exposure of any such goods.

Account to be kept of goods warehoused.

655. The officer in charge of any Government bonded warehouse shall on receiving any goods into such warehouse compare such goods as far as practicable with the import entry for warehousing them and shall forthwith make due and regular entry of the receipts of the goods aforesaid in a book to be kept for that purpose according to a form to be prescribed by the Premier and after the receipt of the proper authority on a form duly appointed shall on the delivery or re-warehousing of such goods duly and regularly enter such delivery or re-warehousing in the book aforesaid.

Goods may be packed in bond.

656. All goods removed to a Government bonded warehouse shall be removed thither in the original packages in which imported unless with the special permission of the chief officer of Customs at any port but the owner of any goods in any Government bonded warehouse or any person employed by him may with the permission of the proper officer of Customs take samples of such goods on payment of a fee of one shilling (1s.) for every sample so taken or may bulk sort lot pack or re-pack any goods with the exception of spirits which shall be re-packed only for ship's stores and provided that no package so replaced shall be of less dimensions or contain a smaller quantity of any article than may from time to time be determined by the chief officer of Customs at any port.

oods—How removed rom bond.

657. Any dutiable goods deposited in any Government bonded warehouse may after payment of all moneys owing thereon to the Crown be removed therefrom by the proper owner (1) by passing an export entry for such goods and entering into a bond as hereinafter provided for the export of dutiable goods or (2) by passing an entry for home consumption and paying duty on such goods or (3) by passing an entry in respect of such goods for the removal of dutiable goods to a Government bonded warehouse and entering into a bond as required in Section 648 of this Act. And any dutiable goods removed from any Government bonded warehouse save as provided in this Section (unless with the written permission of any officer of Customs) shall be forfeited to the Crown and any person removing or assisting or aiding or abetting in the removal of such goods except in a manner provided in this Act and any person receiving such goods shall be liable to a fine not exceeding one thousand dollars ($1,000) nor less than one hundred and twenty-five dollars ($125) and in default to imprisonment for a term not exceeding three months nor less than fourteen days.

658. Should the owner of any goods left three years in any Government bonded warehouse not remove such goods at the expiration of that period nor pass an entry to have such goods re-warehoused the Premier shall cause a notice to be inserted in the Gazette giving the marks of any such goods with the name of the owner thereof if the name of the owner is known and with the date on which such goods were received into any Government bonded warehouse and shall name a day which shall not be less than one month from the date of such notice on which the said goods shall be sold by public auction if not previously dealt with by the proper owner in the manner hereinbefore provided in the last preceding Section and shall cause such goods to be sold accordingly.

Goods if not dealt with after three years to be sold by auction.

659. On the sale by auction of any goods as aforesaid there shall be deducted from the proceeds of sale after payment of any necessary expenses connected with the sale thereof any Customs duty and any other fee or charges payable to the Crown on such goods and the surplus if any after such payments have been made shall be paid into the Treasury and if not claimed by the owner of the goods aforesaid within twelve months shall be forfeited to the Crown. But should any goods as aforesaid be unsaleable or should their condition or value be such that the proceeds of sale would not in the opinion of the Premier pay the necessary expenses of sale by public auction such goods may be destroyed and neither the owner thereof nor any person or persons shall have any claim against any officer of Customs nor against the Crown for the destruction of such goods.

Proceeds of sale—how disposed of.

660. When any goods have been received into a Government bonded warehouse or so long as any goods remain therein the owner of such goods may at any time on application to the Officer of Customs in charge of such warehouse and on payment of the proper fee receive a certificate to be called a "Bond Certificate" in such form as may be from time to time approved by the Premier stating that such goods are in the Government bonded warehouse and containing a description of such goods so far as known to such Officer and when such goods were deposited in such warehouse. On the issue of any certificate as aforesaid the Officer granting it shall make due entry thereof in a book to be kept for that purpose and no goods in respect of which a certificate has been granted as hereinbefore mentioned shall be removed from the Government bonded warehouse unless the certificate aforesaid shall be produced together with the invoice bill of lading or shipping receipt required under this Chapter in connection with the removal of any goods from a Government bonded warehouse. The certificate shall be issued for and include only unbroken packages and of these only such packages as were bonded on one day by the owner thereof aforesaid and may be transferred by regular assignment but only for all the goods mentioned in the certificate and in the form therein provided and any person to whom the certificate has been so assigned producing it at the Government bonded warehouse mentioned therein shall be held to be the owner of the goods described in the certificate and on the surrender of the certificate to the Officer of Customs who shall immediately cancel it the goods shall be delivered to the said person on the payment of all dues and charges thereon and no claim on account of such goods so delivered shall lie against any Officer of Customs or against the Crown. The fee payable on the certificate under this Section shall be at the rate of one shilling (1s.) per package and not exceeding one dollar and one shilling ($1 1s.) on the whole of the goods bonded on one day and mentioned in the certificate or such

Transferable bond certificate may be issued by Officer of Customs.

other rate as may be from time to time fixed by the Premier with the advice and consent of the Privy Council.

THE COLLECTION OF CUSTOMS DUES.

Dues payable in current coin and before removal of goods.

661. All Customs dues warehouse wharfage and other charges payable to the Crown on any goods under any law now in force or that hereafter may be in force in this Kingdom shall be paid in full at or before the time that an entry is passed for such goods whether such entry be an import or export entry or an entry for home consumption and before such goods are removed from the control and custody of the proper Officer of Customs and such dues and charges shall be paid to the Collector or other chief Officer of Customs at any port of entry or to any other Officer deputed to receive them by such Collector or other chief Officer of Customs and between the hours of nine a.m. and three p.m. on ordinary working days and between the hours of nine in the forenoon and noon on Saturdays. All dues and charges as aforesaid shall be paid in the current money of the Kingdom.

Invoice and bill of lading to be produced on passing entries

662. Before the Collector or other proper Officer of Customs as aforesaid determines the amount of duty payable on any goods or before any import entry is passed for any goods as hereinbefore provided such Collector or other proper Officer of Customs may demand that the invoice or bill of lading or shipping receipt for such goods be produced before him for examination and if the said invoice or bill of lading or shipping receipt is not produced as aforesaid or if for any other reason it is considered necessary then the Collector or other proper Officer of Customs may cause the said goods to be brought at the expense of the owner thereof to a Government bonded store to be examined there (any unpacking weighing measuring or repacking to be done at the expense of the owner) and may require the said owner to declare on oath where and when such goods were purchased by him so that the Collector or other Officer of Customs may examine such goods in order to fix the amount of duty payable thereon but should the Collector or other Chief Officer of Customs be unable to determine the amount of duty payable on any goods for which no invoice bill of lading or shipping receipt has been produced as aforesaid or should the owner thereof be dissatisfied with the decision of the Collector or other Officer in respect of the Customs dues payable on the said goods the Collector or such other officer may employ an expert to examine such goods at the expense of the owner thereof in order to enable the amount of duty payable thereon to be determined but nothing in this Section shall prevent the owner of any goods for which no invoice bill of lading or shipping receipt has been received from depositing them in a Government bonded warehouse for a period not exceeding two months by passing an entry as complete as possible for the removal of such goods to a Government bonded warehouse and if on the expiration of that period perfect entry has not been passed for such goods they shall be sold for the payment of any dues and charges payable thereon to the Crown and fixed by the Collector or other Chief Officer of Customs or by an expert as aforesaid and any overplus shall be paid to the owner.

Determination of ad valorem dues in ordinary cases.

663. The amount of Customs dues payable on any goods which are liable to an ad valorem duty shall if an invoice for the said goods is produced to the Collector or other proper Officer of Customs be calculated on the price paid for the said goods by the owner thereof as represented in such invoice notwithstanding that such price may be

different from that paid for such goods by any prior owner thereof provided always that the Collector or such other proper officer of Customs is satisfied that the entries in such invoice are true and that the invoice is genuine in every particular and that the price paid for the said goods by the owner thereof as represented by the invoice aforesaid appears to be a fair market value for such goods at the place and at the time that they were purchased by the owner thereof.

Discount on invoice of goods.

664. When the invoice produced before the Collector or other proper officer of Customs in respect of any goods liable to an ad valorem duty shows that any trade discount has been allowed to the owner of such goods on the purchasing price of the said goods as entered in the body of the invoice the Collector or other proper officer of Customs may if he considers it necessary so to do before omitting the said discount from the original price on which any ad valorem duty is calculated in respect of such goods require the owner thereof to make a declaration on oath that such discount was truly made to him on the purchasing price of such goods and that the entry showing such discount on the invoice was made at the time and at the place of the purchase of the goods by such owner and should the owner of the said goods refuse or neglect to make the declaration aforesaid then the duty payable on such goods shall be calculated on the invoice price of such goods without making any allowance for any discount as aforesaid provided always that the Collector or other officer is of opinion that the price so represented is such as that for which the goods in question could have been purchased at the time and place represented by the invoice aforesaid but if the Collector or other proper officer is of opinion that the price of such goods would not be fairly shown as aforesaid then the value of such goods shall be determined in the manner provided in Section 663 hereof.

Officer of Customs may detain false or disputed invoice, etc.

665. Should the proper Officer of Customs be of opinion that any invoice bill of lading or shipping receipt or other document produced before him in connection with the payment of any Customs dues or other charges on any goods is not genuine or that any false entry has been made thereon or some necessary entry omitted therefrom or should any dispute arise between the owner of any goods and any Officer of Customs as to the amount of Customs dues or other charges payable upon any goods it shall be lawful for the proper Officer of Customs to detain in his possession any invoice bill of lading shipping receipt or any other document put before him in connection with such goods until any such dispute shall be settled in the manner herein provided or until any prosecution in respect of any such invoice bill of lading shipping receipt or other document or in respect of any goods referred to by such document shall have been completed.

Payments of Customs dues on goods removed from bond.

666. When the owner of any goods liable to the payment of duty wishes to remove such goods from any Government bonded warehouse by the payment of Customs dues and other charges thereon the owner aforesaid shall pass an entry at the Custom House for such goods for home consumption. At the time that such entry is passed the invoice and bill of lading or shipping receipt for such goods shall be produced to the proper Officer of Customs and upon such invoice or upon the import entry passed for such goods or upon the entry of such goods made by the proper Officer of Customs on receiving such goods into a Government bonded warehouse Customs dues shall be calculated and paid save only on spirits on which duty shall be paid according to its measurement or weight on delivery from

bond and upon tobacco and cigars on which duty shall be paid according to weight on delivery from bond after having been in bond three months provided that if the invoice and bill of lading or shipping receipt for such goods is not produced then the amount of duty payable on such goods shall be determined in the manner provided in Section 662.

Entry of Vessels Outwards.

Master to enter vessel outwards before taking in cargo.

667. The master of any vessel about to sail beyond the Kingdom shall not less than twenty-four hours before any outward cargo is taken on board such vessel or before the sailing of the said vessel should the same sail without taking on board any cargo complete an entry outwards at the Custom House of some port of entry producing before the proper Officer of Customs any papers or documents connected with such vessel as may be demanded by such officer and such entry outwards shall be in such form and of such dimensions as may from time to time be approved by the Premier and shall be of one of the following classes :—

1. A Direct Entry Outwards for any vessel sailing with or without cargo from the port of entry where such vessel lies to some port or place outside the Kingdom :

2. An Indirect Entry Outwards for any vessel sailing from a port of entry as aforesaid with or without outward cargo to some other port or ports of entry in the Kingdom to proceed thence beyond the Kingdom :

3. A Special Entry Outwards to be granted by the Premier or any officer of Customs authorised by him for the purpose who may demand any security that may by him be deemed requisite that the conditions on which such special entry outwards is granted will be complied with for any vessel sailing from a port of entry or from some place not a port of entry with or without outward cargo on board to take in outward cargo at some place or places in the Kingdom not a port or ports of entry and to sail thence calling at a port of entry or without again visiting a port of entry in the Kingdom as may have been permitted in such special entry outwards.

The master of any foreign-going vessel as aforesaid who takes causes or permits any goods to be taken on board such vessel before completing an entry outwards as herein provided or that sails or attempts to sail from the Kingdom without completing the proper entry outward in each case as hereinbefore provided or that passes an "indirect entry outwards" and does not call at any port of entry in the Kingdom mentioned in such "indirect entry outwards" shall at any time within three years thereafter on conviction in a summary manner before a Police Magistrate be liable to a penalty of not exceeding five hundred dollars ($500) nor less than one hundred and twenty-five dollars ($125) or in default of payment to imprisonment for any term not exceeding three months nor less than one month.

Cargo outwards not to be shipped without permission until all cargo is discharged.

668. No entry outwards as provided in the last preceding Section shall enable the Master of any vessel to take or receive on board any outward cargo until all inward cargo shall have been discharged and removed from such vessel. Provided however that whenever the Collector or other chief Officer of Customs at any port of



entry is satisfied that it would be expedient to allow outward cargo to be shipped at the same time that inward cargo is being discharged or before all inward cargo is removed from any vessel and that such can be done without injury to the public revenue such Collector or other chief Officer of Customs may permit outward cargo to be put on board any vessel before all inward cargo has been discharged or removed from such vessel but every such case shall be reported to the Premier or official in charge by the Collector or other chief Officer of Customs as the case may be.

EXPORT ENTRY OF GOODS.

Export entries to be passed before clearance of vessel.

669. The owner of any goods about to be shipped for export from the Kingdom in any vessel about to sail beyond the Kingdom shall present to the Officer of Customs at the port of entry where the said vessel is anchored a written notification which shall be in a form and dimensions to be from time to time approved by the Premier and shall in every case before the shipment of any goods as aforesaid declare the intention of the said owner to ship such goods for export. The owner of any goods shipped or to be shipped for export from the Kingdom in any vessel about to sail beyond the Kingdom shall pass an export entry for such goods at the Custom House and such export entry shall in every case be completed by the owner of the goods to which the entry refers before a clearance has been granted to the vessel by which the said goods are to be exported and shall be in a form and of dimensions to be from time to time approved by the Premier and shall in every case declare the true value in this Kingdom of the goods to be exported and shall declare whether such goods were produced or manufactured in the Kingdom or imported thither from abroad and for what port or place any such goods are destined and shall on demand of the proper Officer of Customs produce the invoice bills of lading and other documents relating to such goods to test the accuracy of the export entry for such goods and every such export entry shall be of some one of the following classes:—

1. An export entry for goods to be exported under bond:
2. An export entry for goods on which any drawback or duty is allowed:
3. An export entry for goods not liable to the payment of any duty:
4. An export entry for goods on which an export duty is leviable.

Goods for export may be examined by any Officer of Customs.

670. Any goods shipped or brought for shipment may be examined by any Officer of Customs at any place before or after an export entry is passed for such goods and the opening for that purpose of packages containing such goods and the weighing repacking and if brought on the request of an Officer of Customs to a Custom House for examination the landing and shipping thereof shall be done by or at the expense of the exporter and any goods in respect of which no export entry has been passed as provided in the last preceding Section found on board any vessel by any officer of Customs after a clearance has been granted to such vessel as provided in Section 675 hereof shall be forfeited to the Crown.

Dutiable goods not to be shipped in vessels under

671. No dutiable goods and no goods on which any drawback of any duty is claimed under this Act or under any regulation framed in accordance with the provisions thereof shall for the purpose of being



thirty tons register.

exported from the Kingdom or of being removed from any place in the Kingdom to any other place therein be put on board any vessel of less dimensions than thirty registered tons nor on board any vessel whatever not provided with the means of properly securing any goods as aforesaid to the satisfaction of any Officer of Customs.

Export entry and bond for dutiable goods for export.

672. An export entry for dutiable goods shall be completed by the owner of such goods before they are removed from the place where such goods may have been legally deposited and one copy of such entry duly passed and signed by the proper Officer of Customs shall be delivered to the Officer of Customs charged with the safe keeping or delivery of the said goods before such Officer shall deliver up or allow them to be removed from his control. And an export entry for any goods on which any drawback of duty is allowed shall be passed before such goods are shipped and at the time of completing any export entry as aforesaid the owner of the goods described in such entry shall enter into a bond for any sum to be approved by the Collector or other Chief Officer of Customs and which if required shall be signed by at least one other person besides the owner of the said goods to the satisfaction of the Collector or other Chief Officer of Customs that the goods to be exported as aforesaid shall within such time and by such route by such vessel as may be specified in such bond under the supervision of an Officer of Customs be duly put on board the vessel mentioned in such bond and that they will not be used on board such vessel in the Kingdom nor landed nor removed from such vessel at any place within the waters of the Kingdom except to be returned as may be permitted or directed by the Collector or other Chief Officer of Customs to a Government bonded warehouse or by passing an import entry for the said goods in the manner hereinbefore provided in this Chapter for goods imported into this Kingdom from abroad.

Landing certificate for dutiable goods.

673. The owner of any dutiable goods exported as provided in the last preceding Section and any co-obligant signing together with such owner the bond required under the said Section shall not be held as relieved from obligation in respect of such bond until a landing certificate has been produced to the Collector or other proper Officer of Customs at the port whence such goods were exported signed by some Customs or Consular Officer at the place where such goods were landed or in the event of there being no Consular or Customs Officer at such place then the said certificate shall be signed by some person in authority there or by any two white residents in such place that the goods aforesaid were duly landed there (such person in authority or any two white residents as aforesaid to be appointed by the Premier otherwise a landing certificate signed without approval shall be deemed to be valueless for the purposes of this Chapter) unless the Premier shall be satisfied without the production of such landing certificate that the goods to which the bond refers were duly landed at the place specified in such bond or have been otherwise properly accounted for.

Export entry for goods liable to export duty to be passed before shipment.

674. An export entry for any goods liable to any export duty shall be passed and completed before such goods are shipped and at the time of passing such entry and before the said goods are put on board any vessel for export all Customs dues leviable on such goods shall be paid to the Collector or other proper officer of Customs and any such goods found by any officer of Customs on board any vessel before any Customs dues on such goods have been paid or any such goods taken or received on board any vessel except in the presence and by the

authority and permission of an officer of Customs may be seized by any officer of Customs and the owner of such goods shall be liable to a penalty of not exceeding two hundred and fifty dollars ($250) and in default of payment to imprisonment for a term not exceeding two months and all such goods seized as aforesaid shall be forfeited to the Crown.

Clearance of vessel outwards.

675. The master of any foreign-going vessel shall not more than twenty-four hours before such vessel leaves any port of entry in the Kingdom produce before the Collector or other chief officer of Customs the register of such vessel and the crew's articles of agreement with a content or manifest on the approved form of all goods on board such vessel for export or be carried coastwise and if required by the Collector or other chief officer of Customs all bills of lading or shipping receipts having reference to such goods with a list of all goods on board such vessel to be used as stores and provisions during the voyage and with a list of all passengers leaving such port of entry on the said vessel with their destinations and the master aforesaid shall make and subscribe a declaration that the abovementioned papers and documents are correct and true according to the best of his knowledge and belief and such declaration should the Collector or other chief officer of Customs so demand shall be made on oath and when the said Collector or other chief officer of Customs is satisfied on each and all the above particulars then such Collector or other chief officer of Customs shall grant a clearance to such vessel which shall be in a form to be prescribed from time to time by the Premier and the master of any vessel that shall allow such vessel as aforesaid to leave any port of entry without obtaining a clearance as herein provided or that shall fraudulently subscribe any declaration or affirm on oath that any declaration as aforesaid is true when the master of such vessel knows the said declaration to be false and the master of any vessel that shall depart from any place in the Kingdom with any Customs or other Government officer on board without the consent of such officer shall be liable to a penalty of not exceeding one thousand dollars ($1,000) and not less than one hundred and twenty-five dollars ($125) and in default of payment to imprisonment for a term not exceeding six months nor less than one month.

Drawback of Duty.

Regulations to be made with reference to drawback of duty.

676. It shall be lawful for the Premier from time to time to frame regulations respecting drawback of duty to be allowed on any goods exported from the Kingdom under this Chapter or to revoke or amend any such regulations as may from time to time be deemed expedient and such regulations when approved by the Privy Council and published in the Gazette shall have the force of law as if they had formed part of this Chapter. Such regulations may impose a money penalty for any offence thereunder not exceeding two hundred and fifty dollars ($250) and may provide for the forfeiture of any goods and may determine the proportion of drawback to be allowed on any goods whether exported in original or broken packages and within what periods after the introduction of any goods into the Kingdom drawback shall be allowed thereon and on what goods no drawback shall be allowed and shall prescribe the conditions under which such drawback shall be made both on original and on broken packages and where and under what conditions or restrictions goods on which drawback is allowed shall be repacked provided that no drawback shall be allowed on any damaged goods and that the drawback on any goods repacked from broken packages shall not in any case exceed three-fourths of the duty originally paid on such goods.

Coasting.

Coasting licenses.

677. Licenses to enable vessels to be employed within the Kingdom or coast in any manner whatever within the waters of the Kingdom (hereinafter called "Coasting Licenses") and licenses to enable foreign-going ships or ships arriving at any port from any place beyond the Kingdom to carry coastwise within the Kingdom goods or passengers not arriving therein from abroad or not to be carried therein beyond the Kingdom (hereinafter called "Licenses to Carry Coastwise") shall be issued by the Collector or chief Officer of Customs at any port of entry.

Period for which licenses may issue and rates payable.

678. Coasting Licenses or licenses to carry coastwise shall be subject to the annual rates of payment hereinafter in Schedule A stated and shall be issued for three six nine or twelve months upon such annual rates or proportionate part thereof according to the time for which they are issued. And in all cases such licenses shall date from the first day of January April July or October and shall expire on the last day of March June September or December as the case may be.

Where temporary licenses may be given.

Provided that if in any case a steamship should be sent to the Kingdom in substitution of a steamship running regularly to the Kingdom and duly licensed to carry coastwise therein it shall be lawful for the chief Officer of Customs to grant in respect of such first-mentioned steamship a temporary license during the license of such other steamship for such time and upon such terms as he shall think fit.

Penalty for employing vessels within the Kingdom without being properly licensed.

679. Any person employing any vessel within the Kingdom or carrying coastwise in any ship within the Kingdom goods or passengers not arriving therein from abroad or not to be carried therein beyond the Kingdom without being duly licensed as above mentioned shall on conviction for each such offence be liable to a penalty not exceeding two hundred and fifty dollars ($250) or be imprisoned for any term not exceeding three months. Provided always that nothing in this Section shall be held to apply to or affect any native of Tonga in charge of a vessel the property of a native of Tonga while employed exclusively in carrying only native passengers or native produce within the waters of the Kingdom and the Master of any vessel owned by a Tongan and employed exclusively in carrying native passengers or native produce shall pay the sum of one dollar ($1) for each clearance.

Duties required from Master of vessel on entering and on leaving a port of entry.

680. The master of any vessel in respect of which a coasting license is held shall each time such vessel arrives at a port of entry enter the same at the Custom House of such port of entry within twelve ordinary office hours after such arrival and shall clear the said vessel at the Custom House aforesaid before the departure of the said vessel from such port by presenting at the Custom House the cargo-book of such vessel fully made up to date of such presentation. Such cargo-book shall be in such form as from time to time may be approved by the Collector of Customs and the Master of any vessel shall enter in such book the names of all passengers embarking in and disembarking from such vessel and where and when any such passengers went on board and left such vessel and a description of all goods taken on board where and when discharged and the names of all places called at by such vessel during every voyage. Such book shall on demand be produced at any time to the Collector or any other Officer of Customs or to any Police Magistrate or Police Officer and shall when filled up and completed be delivered or transmitted to the Collector of Customs and the Master of any such vessel that refuses or neglects to comply with any of the provisions of this Section shall on

conviction for each such offence be liable to a penalty of not exceeding twenty-five dollars ($25) and not less than three dollars ($3) and in default of payment to imprisonment for a term not exceeding seven days nor less than twenty-four hours.

681. On any vessel in respect of which a license to carry coastwise may have been granted there shall be paid at the first port of entry entered by such vessel whereat pilotage light or shipping dues are collected the ordinary pilotage light or shipping dues charged inwards and at the last port of entry entered by such vessel whereat the said pilotage light or shipping dues are collected the ordinary pilotage rates charged outwards leviable under any Act now in force or that hereafter may be in force on any such vessel arriving in or proceeding beyond the Kingdom. Such license as aforesaid shall not affect any vessel to which it is granted in any particular not herein specified.

Manner of levying pilotage rates and light dues inwards and outwards.

682. The master of any vessel in respect of which a license to carry coastwise shall have been granted shall on arriving at any port of entry produce to the chief officer of Customs at such port the clearance of the said vessel from the port of entry last visited by such vessel and any other papers that may be demanded connected with such vessel or any goods on board such vessel together with the contents or manifest of all goods and the list of stores and provisions thereon before any goods whatsoever whether carried coastwise or not are removed or discharged from the said vessel and shall before such vessel leaves any port of entry enter or cause to be entered on such content or manifest as goods to be carried coastwise to any port or ports as specified in such manifest all goods taken on board such vessel at such port of entry to be carried coastwise with the destination of the same and shall produce such manifest and passenger-list to the chief officer of Customs at such port of entry not more than twenty-four hours before the departure of the said vessel from such port of entry and shall answer any reasonable question and give any information on oath or otherwise as may be required by such officer of Customs in respect of any goods or passengers as aforesaid. The master of any such vessel as aforesaid shall not allow or permit such vessel to leave any port of entry until a clearance shall have been granted to such vessel by the chief officer of Customs at the said port of entry.

Master to produce clearance and other papers on arriving at any port of entry.

683. The master of any vessel having on board any goods imported in such vessel from beyond the Kingdom and still undischarged from such vessel or having on board any goods to be exported beyond the Kingdom in such vessel shall proceed with the said vessel direct from one port of entry to another port of entry in the Kingdom as may have been specified in the clearance of such vessel without taking on board and without discharging or disembarking any goods or passengers at any port or place and without stopping at any other port or place. Provided always that it shall be lawful for the Premier or an officer of Customs authorised by him in writing to grant permission on application on such terms and conditions as to the Premier may seem expedient to allow any vessel as aforesaid to proceed to any place not a port of entry for the purpose of landing thereat or of taking on board any passengers or cargo.

Where vessel in proceeding coastwise has on board goods from beyond the Kingdom.

684. The master of any vessel who shall refuse or neglect to comply with any of the provisions of Sections 682 or 683 of this Chapter shall for every such offence be liable to a penalty of not exceeding five hundred dollars ($500) nor less than twenty-five dollars ($25) and in

Penalty section.

default of payment to be imprisoned for any term not exceeding six months nor less than seven days.

SHIPMENT OF STORES.

Stores allowed free of duty to foreign-going vessels.

685. The master of every vessel of the burden of thirty tons register or upwards entering outwards to any place out of the Kingdom shall upon due application made by him receive from the proper officer of Customs an account or victualling bill (which may be endorsed upon the content or manifest of such vessel) for the shipment or retention on board of such stores as he shall require and as shall be allowed by the Collector or other proper officer of Customs for the use of such vessel with reference to the number of the crew and passengers on board and the probable duration of the voyage upon which the said vessel is about to depart and no articles taken on board any vessel shall be deemed to be stores except such as shall be specified in such account or victualling bill or endorsed on the content or manifest of such vessel as the case may be. And if any such stores shall be re-landed in the Kingdom or removed from such vessel while within the waters of the Kingdom without the sanction of the proper officer of Customs and without passing entries for the same as for the like sort of goods imported as merchandise they shall be forfeited and the master shall for every such offence be liable to a penalty of not exceeding one hundred dollars ($100) and if any vessel shall have on board any stores that with the permission of the proper officer of Customs are to be retained on board such vessel for use in port or during any intended voyage and if there is no proper or sufficient place on board such vessel for securing such stores to the satisfaction of the officer of Customs the officer may cause such stores to be removed to a Government bonded warehouse or if there is no Government bonded warehouse at the port to some other secure place at the expense of the master of the said vessel and such goods shall be liable to the ordinary charges on goods in a Government bonded warehouse.

SMUGGLING.

Customs Officer may search any vessel and examine any goods.

686. It shall be lawful for any Officer of Customs to go on board any vessel at any place and at any time within the waters of the Kingdom and to search for or examine any goods in any part of such vessel and to break open any cabin hold hatch compartment or any box chest or package or any other place or thing to search for any goods if the keys of any such cabin hold hatch compartment or of any box chest or package or of any other place or thing are not produced to such Officer of Customs by the Master of the said vessel on the request of the Officer of Customs aforesaid and any dutiable goods found therein shall be forfeited to the Crown together with all other goods contained in the same packages or used in concealing such dutiable goods and such Officer of Customs may demand the content or manifest or other list of goods on board such vessel and the list of stores and provisions for the same at the port she last quitted as well as the clearance of such vessel from the port from whence she last sailed and the bill of lading or shipping receipt for any goods found in such vessel or any other document that may be required to identify any such goods and the Master of any vessel that shall refuse to deliver up to any Officer of Customs as aforesaid any key or refuse or neglect to open any cabin hold hatch compartment or any box chest or package or of any other place or thing hereinbefore provided or that shall refuse or neglect to produce any document demanded by such Officer of Customs having reference to any goods or stores on board

such vessel or that shall refuse to bring such vessel to if under way or to bring such vessel to anchor at some port of entry on the request of such Officer of Customs and any person that shall obstruct or molest any Officer of Customs in searching any vessel or while on board or near any vessel as aforesaid shall be liable to a penalty of not exceeding one thousand dollars ($1,000) nor less than two hundred and fifty dollars ($250) and in default of payment to imprisonment for not exceeding six months nor less than two months.

Undeclared goods to be forfeited.

687. When any goods not included in any declaration made under Section 640 hereof by the Master of any vessel on her arrival in any port in the Kingdom are found on board any such vessel by any Officer of Customs after any declaration as aforesaid has been made or when any goods are found on board any vessel after a clearance has been granted in the Kingdom to such vessel that are not included in the content or manifest of such vessel or in the list of stores of the same and the presence of such goods on board is not satisfactorily accounted for to the said Officer of Customs or when any Officer of Custom finds on any vessel any goods that such Officer has reasonable ground for believing to have been imported into the Kingdom by some other vessel and that duty has not been paid on such goods it shall be lawful for any such Officer of Customs to seize such goods and affix thereto or thereon such marks as he may deem necessary and to remove or cause such goods to be removed to the Custom House or to a Government bonded warehouse for the purpose of securing them and unless the presence of such goods on board any vessel is satisfactorily accounted for or unless it is proved that all Customs dues have been paid on such goods as the case may be before a Police Magistrate such goods shall be forfeited to the Crown and the Master of the vessel in which such goods were found shall on summary conviction before a Police Magistrate be liable to a penalty of not exceeding one thousand dollars ($1,000) nor less than one hundred and twenty-five dollars ($125) and in default of payment to imprisonment for not exceeding six months nor less than one month provided always that any other person on board such vessel whether such person is a passenger or one of the crew of the said vessel may instead of the Master of such vessel at the discretion of the Premier be proceeded against for having in his possession or for aiding or abetting in the concealing of any goods as aforesaid and any such person shall on summary conviction before a Police Magistrate be liable to the penalty herinbefore mentioned in this Section.

Issue of search warrant by Police Magistrate.

688. It shall be lawful for any Police Magistrate on sworn information laid by the Chief Officer of Customs at any port or by any other Officer of Customs deputed by such Chief Officer of Customs to issue a search warrant to enable any Officer of Customs to enter upon and search any premises named in such warrant and to enable such Officer of Customs to break open any place box case safe compartment or any receptacle whatever in which any dutiable goods could be concealed should the owner or occupier of such place or the owner of such box case safe compartment or other receptacle as aforesaid not open the same without delay or hindrance to the said Officer of Customs and such Officer of Customs may seize and remove to a Custom House or to a Government bonded warehouse any goods on which such Customs Officer has reasonable grounds for believing that no duty has been paid or insufficient duty has fraudulently been paid and the person in whose possession any such goods were found or the occupier of any house or of any premises in or on which any such goods may be found if the said goods were not found in the possession of any person other

than such occupier and unless such occupier can show that the goods aforesaid were in the possession of some person other than himself shall unless it is proved to the satisfaction of the Police Magistrate that all duties leviable on such goods have been paid be liable to a penalty of not exceeding one thousand dollars ($1,000) nor less than one hundred and twenty-five dollars ($125) and in default of payment to imprisonment for not exceeding six months nor less than one month and any such goods as aforesaid shall be forfeited to the Crown.

Individuals and travelling baggage may be searched and detained.

689. Any Officer of Customs may search any person on board any vessel within the limits of any port or any person who shall have landed from any vessel although such person may have declared that he has in his possession no dutiable goods if such person is suspected by such Officer of Customs to have in his possession such goods and may examine the travelling baggage or other effects of any such person as aforesaid and if any such goods are found on any such person or in his travelling baggage or other effects such Officer of Customs may if considered necessary by him detain such person until a warrant for his arrest shall have been obtained or until security satisfactory to the chief Officer of Customs of the port shall have been given for the appearance of such person when summoned to appear before a Police Magistrate and any dutiable goods found as aforesaid shall be seized by the Officer of Customs finding them and any person on whom or among whose travelling baggage or other effects any such goods shall be found as aforesaid or any person in whose possession any goods so introduced into the Kingdom shall be found shall be liable to the same penalty as that provided in Section 657 of this Chapter and any goods seized by any Officer of Customs aforesaid shall be forfeited to the Crown. Provided that where any search is made upon a female it shall be conducted by a female.

Means of conveyance may be stopped examined and detained.

690. It shall be lawful for any Officer of Customs on reasonable suspicion or probable cause to stop and to search any boat whether licensed or otherwise or any other means of conveyance used or that might be used for the carriage removal or transport of any goods by water and to stop and to search any person dray cart waggon animal or any other means of conveyance used or that might be used for the carriage removal or transport of any goods by land and if no dutiable goods shall be found the Officer shall not on account of such stoppage and examination be liable to any prosecution or action at law on account thereof but if any dutiable goods in respect of which no entry or declaration or any false entry or declaration has been made at any Custom House or on which no duty or through fraud an insufficient amount of duty has been paid are found by such Officer of Customs aforesaid in any boat or on any other means of conveyance by water or in any dray cart waggon or on any person or on any animal or in or on any other means of conveyance by land any such means of conveyance and all such goods as aforesaid and the person in charge of the same may be detained by such Officer of Customs and the person in whose possession such goods were found or the employer of such person or the owner of such goods shall at the discretion of the Premier be proceeded against and if such person such employer or such owner cannot prove that all duty leviable on such goods has been duly paid then such person employer or owner as the case may be shall be liable to a fine of not exceeding one thousand dollars ($1,000) nor less than two hundred and fifty dollars ($250) and in default of payment to imprisonment not exceeding six months nor less than one month and any such goods together with any boat or with any dray cart waggon

animal or any other means whatever used for or in the transport or conveyance of such goods by land or by water shall be forfeited to the Crown and any person who shall knowingly have given or assisted to give or deliver such goods to be conveyed removed or transported as aforesaid and any person that shall have assisted to remove convey or transport such goods knowing that they were liable to the payment of duty and any person that shall have received or concealed or have attempted to receive or conceal such goods shall be liable to a penalty not exceeding five hundred dollars ($500) nor less than one hundred and twenty-five dollars ($125) and in default of payment to imprisoment not exceeding three months nor less than one month.

Penalty for refusing to stop means of conveyance and permit examination.

691. Should any Officer of Customs as provided in the last preceding Section demand the stopping of any boat or of any other means of conveyance removal or transport of any goods by water or of any person cart waggon or animal or other means of conveyance removal or transport of any goods by land any person in charge of or in any way employed or aiding or assisting in or about such means of conveyance either by land or water as aforesaid that shall refuse or neglect to stop any such means of conveyance or that shall refuse or neglect to permit an examination by such Officer of Customs of any such means of conveyance and of any goods in or on or about the same shall on conviction in a summary manner before a Police Magistrate be liable to a penalty not exceeding five hundred dollars ($500) nor less than fifty dollars ($50) or in default of payment to imprisonment not exceeding three months nor less than fourteen days.

Vessels with false or concealed stowage room to be forfeited.

692. If there be found or be discovered to have been within three leagues of the coast of the Kingdom any Tongan vessel or any foreign vessel of the persons on board which not less than half are subjects of His Majesty or if there be found or be discovered to have been within one league of the coast of the Kingdom any foreign vessel of the persons on board which less than half are subjects of His Majesty and such vessel in either case shall be furnished with any false bulk-heads false bottom false bows false side or with any secret disguised or concealed place or compartment of any description whatever or with any hole tube or device for running goods in or about any part of such vessel and having on board or having had on board spirits or tobacco in any form in packages of any size or description prohibited under Section 707 hereof or having or having had on board or landing or discharging or having landed or discharged any dutiable goods contrary to any of the provisions of this Chapter such vessel shall be forfeited with any goods or appliances as aforesaid on such vessel and every person found or discovered to have been on board such vessel liable to forfeiture as aforesaid within three leagues of the coast if a Tongan subject or within one league if a foreigner shall be liable to a penalty not exceeding five hundred dollars ($500).

Vessels found light or chased may be forfeited.

693. When any vessel is found at any place within the waters of the Kingdom with any goods on board and such vessel shall be afterwards found light or in ballast or not having on board all goods as shown by said vessel's manifest or clearance and the master thereof is unable to give a due account of the legal discharge of such goods or when any vessel is found at any place within the Kingdom and the master thereof shall be unable to account for the legal discharge of any goods shipped on board such vessel and entered in the content or manifest of the goods on board or that were put on board the said

vessel the master of any such vessel shall on conviction before a Police Magistrate be liable to a fine of not exceeding two thousand five hundred dollars ($2,500) nor less than five hundred dollars ($500) or the said vessel may be forfeited to the Crown either as an alternative penalty or in the event of the fine being unpaid.

Dutiable goods concealed in packages of other goods to be forfeited.

694. When any dutiable goods are found in any package box or chest containing any other goods for which entries have been passed such dutiable goods if no entry has been passed therefor and their presence before discovery by an officer of Customs has not been disclosed by the owner of the same shall be forfeited to the Crown together with such package and all goods contained therein unless the presence of such dutiable goods is satisfactorily accounted for to the Premier.

General Provisions.

Master to pay head-tax on Chinese before their landing.

695. The master of any vessel arriving in the Kingdom who shall have a native or natives of China on board the vessel under his command shall detain such native or natives on board the said vessel till there shall be paid by the said master to the chief officer of Customs at the port where such native or natives of China are desirous of landing the sum of fifty dollars ($50) for each native of China to be landed within the Kingdom and any such native shall before payment of the fee before mentioned have received a medical certificate from the Medical Officer at Nukualofa or from any other person duly authorised by the said Medical Officer to issue such medical certificates before such landing as aforesaid. The master of any vessel aforesaid who shall refuse or neglect to comply with the provisions of this Section and each such native as aforesaid that may land in the Kingdom before obtaining such medical certificate or before the payment of such fee shall be liable to a penalty not exceeding five hundred dollars ($500) for every such native of China who may land as aforesaid or in default of payment to imprisonment for not exceeding six months.

Master not to embark natives of Tonga without passport.

696. Any master of a vessel who shall receive or harbour on board of any vessel with the intention of carrying out of the Kingdom any native of Tonga who shall not have exhibited to such master of such vessel a passport duly signed by an officer of Customs or officer of Police authorising such natives to leave the Kingdom and any person who shall aid or abet the departure of such native without being in possession of the passport as aforesaid shall on conviction before a Police Magistrate forfeit a sum not exceeding one hundred dollars ($100) and in default of payment be imprisoned for any term not exceeding two months.

Import and export entry for Government goods.

697. No duty shall be levied or collected upon any goods imported into this Kingdom for the use of His Majesty's Government but an import entry shall be passed therefor as provided in Section 645 hereof and a declaration made by the Government storekeeper or by some Government Officer duly authorised that such goods are intended for and will be used solely in the service of the Government. For any goods exported by the Government an export entry shall be passed by the Government Storekeeper or some other Government Officer in the manner provided in Section 674 hereof.

698. In any case in which any fine is inflicted and paid under any of the provisions of this Chapter or in which any goods or any vessel or any animal or any article whatsoever is forfeited to the Crown whether such forfeiture is made along with the infliction and payment of any fine or otherwise any person giving such information to the Collector or other Chief Officer of Customs at any port as led to the detection of the offence in respect of which such fine was inflicted and paid or such forfeiture made as aforesaid may receive on the recommendation of the Premier any sum not exceeding one-half of such fine as aforesaid or one-half of the proceeds of sale after the payment of any duty and other lawful charges and necessary expenses connected with such forfeiture or one-half of such fine and of the net proceeds of such forfeiture as aforesaid provided that the sum so paid to any person for such information shall not in any one case exceed five hundred dollars ($500) and provided also that on the recommendation of the Premier any part not exceeding one-half of the amount so paid to any person informing as aforesaid may be paid to any Officer or Officers of Customs that may have rendered efficient service in securing the conviction on which such fine is paid or such forfeiture made. Any Officer of Customs discovering any offence against any of the provisions of this Chapter in respect of which any fine is paid or any forfeiture made as aforesaid may on the recommendation of the Premier receive one-half of such fine and one-half of the net proceeds of any forfeiture as herinbefore mentioned provided that the sum so paid to any Officer of Customs in any one case shall not exceed five hundred dollars ($500).

Reward to informer not to exceed five hundred dollars ($500).

699. Any person that obstructs molests or hinders or resists any Officer of Customs in the execution of his duty or that uses violent or threatening language to or that attempts in any way whatever to intimidate such Customs Officer or that endeavours by any bribe threat or promise to cause any such Officer to neglect his duty or that attempts in any way whatever to render any Officer of Customs incapable of the proper discharge of his duty or that rescues or attempts to rescue any goods seized by any Officer of Customs shall on conviction be liable to a fine not exceeding five hundred dollars ($500) nor less than one hundred dollars ($100) and in default of payment to imprisonment not exceeding six months and not less than one month and any person that assaults or aids abets or assists in assaulting or that procures or hires any person to assault any Officer of Customs in the execution of his duties shall on conviction be liable to a penalty of not exceeding five hundred dollars ($500) or in default to imprisonment for any term not exceeding three months.

Obstructing threatening or assaulting Officer of Customs.

700. Any offence against any of the provisions of this Chapter for which no specific penalty is provided shall render any person duly convicted of such offence liable to a fine of not exceeding two hundred and fifty dollars ($250) and not less than twenty-five dollars ($25) and in default of payment to imprisonment not exceeding three months nor less than seven days.

General penalty.

701. Any person firm or company doing business in the Kingdom may on a form to be from time to time appointed by the Premier grant an authority to any clerk employed by such person firm or company or to any person for the time being acting as his or their agent to sign at any port of entry specified in such form any declaration

Clerk or agent may be authorised to sign bonds etc.

bond or security or other document required under this Chapter and any declaration bond security or other document so signed shall be valid and binding on the person firm or company aforesaid and any such authority issued to any Clerk or Agent shall remain in full force and effect until intimation of its withdrawal has been received in writing by the Collector or chief Officer of Customs at the port aforesaid.

Officer of Customs may demand authority to transact business.

702. Whenever any person shall make application to any Officer of Customs to transact any business on behalf of any other person such Officer may require the person so applying to produce a written authority from the person on whose behalf such application shall be made and in default of the production of such or some other proof of authority satisfactory to the said Officer of Customs the Officer may refuse to transact such business.

As to expression "hours" in construction of Chapter.

703. In the construction of this Chapter when any thing must be done within a number of "hours" specified herein in reckoning such hours in any prosecution under this Chapter Sundays and holidays shall be excluded.

False document and false declaration.

704. Should any person make any false entry in any form declaration entry bond return receipt or in any document whatever required by or produced to any Officer of Customs or should any person counterfeit falsify or wilfully use when counterfeited or falsified any documents required by or produced to any Officer of Customs or should any person falsely produce to any such Officer of Customs under any of the provisions of this Chapter in respect of any goods or of any vessel any document of any kind or description whatever that does not truly refer to such goods or to such vessel or should any person make a false declaration to any Officer of Customs under any of the provisions of this Chapter whether such declaration be an oral one or a declaration subscribed by the person making it or a declaration on oath or otherwise or should any person not truly answer any reasonable question put to such person by any Officer of Customs under any of the provisions of this Chapter or should any person alter or tamper with any document or instrument after the same has been officially issued or counterfeit the seal signature or initials of or used by any Officer of Customs for the identification of any such document or instrument or for the security of any goods or for any other purpose under this Chapter such person shall on conviction for every such offence unless where a specific penalty is herein provided be liable to a fine not exceeding one thousand dollars ($1,000) nor less than two hundred and fifty dollars ($250) and in default of payment to imprisonment not exceeding six nor less than two months.

Collector or Chief Officer may administer an oath.

705. The Collector of Customs or the Chief Officer of Customs at any port of entry is hereby authorised and empowered to administer an oath to any person for any purpose as provided in this Chapter and any person making or subscribing falsely any declaration when under any oath so administered or any person answering falsely when under any oath so administered by the Collector or by any Chief Officer of Customs aforesaid any reasonable question put by such Collector or other Chief Officer of Customs shall in addition to any other penalty to which such person may be liable under this Chapter be further liable to be prosecnted as for an ordinary case of perjury committed in any legally constituted Court in the Kingdom.

706. The importation into the Kingdom or exportation from it of arms ammunition gunpowder and other explosives or of weapons or stores of war may be prohibited by proclamation or order of the Premier in the Gazette whenever and for such time as may be deemed expedient. And any arms ammunition gunpowder or other explosives and any weapons or stores of war imported into the Kingdom or found on any vessel within one league of the coast of the Kingdom whether for importation or exportation in contravention of such proclamation shall be forfeited to the Crown and the Master of such vessel shall be liable to a fine of not exceeding one thousand dollars ($1,000) nor less than two hundred and fifty dollars ($250) or to imprisonment for any term not exceeding six months nor less than one month.

Importation and exportation of arms and explosives.

707. The goods enumerated and described in the following table of prohibitions and restrictions are except such as may be allowed as ship's stores or passengers' luggage hereby prohibited to be imported and introduced into the Kingdom save as thereby excepted and if any goods so enumerated and described shall be imported or introduced into the Kingdom contrary to the prohibitions and restrictions therein contained such goods and any other goods contained in the same packages shall be forfeited and may be destroyed or otherwise disposed of as the Premier may direct:

Goods prohibited to be imported.

1. Counterfeit coin or false money purporting to be sterling coin according to the law of Tonga and not being of the established standard of weight or fineness.
2. Indecent or obscene books paintings drawings cards engravings photographs prints or other indecent or obscene productions or articles.
3. Spirits (not being perfumed or medicinal spirits) in ships under thirty tons register or in any ship if not duly reported or spirits (not being perfumed or medicinal spirits) in any ship when in casks or other vessels containing each less than ten gallons of liquid measurement or unless in glass or stone bottles or jars properly packed in cases and forming part of the cargo of the importing ship and duly reported.
4. Snuff tobacco cigars and cigarettes in ships under thirty tons register or in any ship if not in whole and complete packages weighing each at least twenty pounds or when found in any ship in any package containing any other goods.
5. Opium or any preparation contain opium or morphia when in any package containing any other goods and not duly reported or opium or any preparation containing opium or morphia if not in the form of chemists' drugs unless in whole and complete packages each weighing not less than thirty pounds.
6. Cattle sheep or any other animal or any part of any cattle sheep or other animal suffering from or that suffered on the voyage from any dangerous contagious disease.
7. Any books comprised in any list publicly exposed from time to time at any Custom House in the Kingdom the importation of which is prohibited on account of the subsistence of copyright.

8. Any papers containing matter intended in the opinion of the Cabinet to disturb the Public Peace. *(Compare Section 264.)*

The forfeiture of any of the above goods shall not prevent any prosecution for any offence against any of the provisions of this Chapter in any case where the Premier may deem such prosecution expedient.

Irresponsibility of Crown for loss by fire accident or felony.

708. No compensation shall be made to the owner of any goods by the Crown by reason of any damage done or loss occasioned thereto in any Government bonded warehouse or in any receiving store by fire or inevitable accident or by felony.

Officer of Customs may take samples of goods.

709. Any officer of Customs may on the entry of any goods or at any time before or afterwards take samples of such goods for examination or for ascertaining the duties payable on such goods or for such other purposes as may be deemed necessary and such samples may be disposed of or accounted for in such manner as the Premier may from time to time direct.

Customs dues on damaged goods.

710. When the owner of any dutiable goods alleges that the goods have been damaged and claims a rebate of Customs dues thereon it shall be lawful for the Premier if such claim was made on the first examination of the goods or when the same was first reported under this Chapter and if it is proved to his satisfaction that such damage was sustained during the voyage of the importing ship to the Kingdom and before the removal of the said goods from such ship to appoint an expert at the expense of the owner of such goods to determine the value thereof and if such goods are liable to an ad valorem duty the duty shall be paid on such valuation and if liable to a specific or general duty the duty shall be determined by the Collector or other chief officer of Customs on the valuation aforesaid but if the owner of the goods is dissatisfied with the amount of duty so fixed a final decision shall be given on the valuation of an expert as provided in Section 662 hereof. All goods derelict flotsam and jetsam and wreck brought or coming into the Kingdom and all droits of Admiralty sold therein shall at all times be subject to the same duties as goods of the like kind on importation into the Kingdom are subject to.

Regulations may be framed under this Chapter.

711. The Premier with the consent of the Privy Council may make regulations for carrying into effect the provisions of this Chapter which regulations may fix penalties for the breach of any of them not exceeding five hundred dollars ($500). And such regulations after publication in the Gazette shall have the same effect as if embodied in this Chapter.

Legal Procedure.

Suits to be entered in name of Collector of Customs.

712. Every suit or proceeding for the recovery of any duty or other charge leviable under this Chapter or for the enforcement of any penalty or for the forfeiture of any goods vessel or boat or any other article or for the satisfying of any bond or security under this Chapter shall be entered in the name of the Collector of Customs and shall be decided in a summary manner.

Police Magistrate may grant warrant of arrest.

713. When any Officer of Customs makes a declaration on oath before a Police Magistrate that any person has been guilty of an offence against this Chapter and that in the belief of such Officer of Customs there is reason to suspect that the said person would leave the Kingdom before any suit against him could be prosecuted in respect of an offence as aforesaid such Police Magistrate may whether an information at the

time such application is made by an Officer of Customs as hereinbefore mentioned has been filed before a Police Magistrate or not issue a warrant to apprehend such person and may require the same to give security by recognisance or otherwise for his appearance when called upon for hearing of his case and in default of such security may commit such person to gaol or to the custody of the Police till the hearing of the case against such person before a Police Magistrate.

Joint and several penalties and prosecutions.

714. When any penalty is incurred under this Chapter severally or jointly by more than one person such persons may be proceeded against jointly or severally as the Premier may deem fit and in a case of proceeding against several persons by joint information for the recovery of any penalty severally incurred by each of such persons such penalty shall be recoverable against each of the said persons not acquitted notwithstanding that one or more of such persons may have allowed judgment to go by confession or default or that the penalty imposed on one or more of such persons is different from the penalty inflicted on any other or others of the said persons and every judgment shall be valid and effectual against any of the persons so jointly proceeded against for the full amount of the penalty inflicted on any one of such persons respectively.

No information conviction or warrant to be quashed for defect therein.

715. Any information laid before any Police Magistrate for any offence committed against or forfeiture incurred or for the satisfying of any bond or security under this Chapter may be in the form and to the effect that the circumstances of each case require and no information summons conviction or warrant or forfeiture shall be held void by reason of any defect therein and no person shall be entitled to be discharged out of custody on account of such defect provided it be alleged in the warrant that the said person has been convicted of an offence as aforesaid and provided it shall appear to the Court before which such warrant is returned that such conviction proceeded on good and valid grounds.

Information may be laid within three years.

716. When any information is laid before any Police Magistrate for an offence against this Chapter by which it is sought to inflict any penalty or to recover any forfeiture or to satisfy any bond or security and such information shall have been laid within three years next after the date when such offence was committed such Police Magistrate may at that time or at any time afterwards issue his summons or warrant for the purpose of causing the person or persons named therein to appear at such time or place as may be directed in the said summons or warrant to be dealt with according to law.

Forfeitures—how made.

717. When any information shall have been laid before any Police Magistrate for the forfeiture of any goods vessel boat or any other conveyance or of any article whatsoever seized under this Chapter such Police Magistrate shall issue his summons to the person or persons owning or claiming such goods vessel boat or other conveyance or other article to appear in support of his claim to the same and upon such appearance or in default after due proof of the service of the summons a reasonable time before the hearing the said Police Magistrate may proceed to inquire into the matter and shall condemn such goods vessel boat or other conveyance or other article as aforesaid or make such order as the circumstances require but should the owner of such goods vessel boat or other conveyance or other article be unknown and the said goods vessel boat or other conveyance or other article remain unclaimed for one month they shall then be condemned by the Police Magistrate.

Minister of Police to be respondent in case of appeal.

718. For the purpose of the prosecution of any appeal to the Supreme Court of the Kingdom against any decision given by any Police Magistrate under this Chapter the Collector of Customs for the time being shall be the respondent.

The burden of proof to rest with accused.

719. If in any prosecution in respect of any goods seized for non-payment of duties or any other cause of forfeiture or for the recovery of any penalty or penalties under this Chapter any dispute shall arise whether the duties of Customs have been paid in respect of such goods or whether the same have been lawfully imported into the Kingdom or lawfully unshipped or concerning the place from whence such goods were brought there and in every such case the proof thereof shall lie on the defendant in such prosecution and the defendant shall be competent and compellable to give evidence and any goods of a description admissible to duty seized under any provision of this Chapter by any Customs Officer on any vessel or at any place whatsoever in the Kingdom or within the waters of the Kingdom shall in any proceeding before a Police Magistrate for the forfeiture of such goods or for the infliction of any penalty incurred in respect thereof or on the hearing an appeal of any such case before the Supreme Court be deemed and taken to be goods liable to and unshipped without payment of duties unless the contrary be proved and the evidence that any person acting as an Officer of Customs in any proceeding relating to Customs or undertaken under this Chapter was duly authorised shall be presumed until the contrary is proved.

Claim to article forfeited to be made by true owner thereof.

720. No claim or appearance shall be permitted to be entered to any information for the forfeiture of any goods ship boat or other conveyance or article seized for any cause of forfeiture under this Chapter unless such claim or appearance be made by or in the true name or names of the owner or owners thereof and oath shall be made by such owner or owners or by one of them or by his or their agent or agents that the said goods ship boat or other conveyance or article are the true and lawful property of such owner or owners and every person convicted of making a false oath as to such facts shall be deemed guilty of perjury and shall be liable to the punishment thereof. *(Compare Section 371.)*

Magistrate's certificates as to uncondemned seizures.

721. In any suit or procedure for forfeiture of any goods ship boat or other conveyance or of any other article if a verdict shall be found for the claimant thereof the presiding Magistrate may certify that the seizure of such goods ship boat or other conveyance or article was reasonable and for possible cause and such certificate shall be a bar to all future proceedings against any Officer of Customs making such seizure and against the Crown in connection with such seizure.

One month's notice of action against Officer.

722. No action shall be commenced against any Officer of Customs or other person acting with due authority under this Chapter for anything done in the execution of his duty or by reason of his office until one month next after notice in writing shall have been delivered to such Officer or other person or left at his usual place of abode and if any such action shall be commenced without such notice having been given and if the Court or Justice or Police Magistrate shall be satisfied by affidavit or otherwise that such action is brought on account of some act matter or thing done in execution of or by reason of the defendant's office such action shall be stayed.

SCHEDULE A.

Annual Rate for Coasting Licenses and Licenses to Carry Coastwise:

	$	s.	d.
Vessel of any kind under two tons	5	0	0
For every additional ton up to 20 tons register per annum ...	1	0	0
For every additional ton above 20 tons (in adition to amount leviable on first 20 tons) per ton per annum	0	2	0

Chapter XXVIII.

DUTIES LEVIABLE UPON IMPORTED GOODS.

723. The Customs Duties enacted in the Act passed on the twenty-first day of December 1888 shall be collected and paid until and including the thirty-first day of October 1891.

724. The Customs Duties contained in the Schedule hereto shall be collected and paid on and after the first day of November 1891.

SCHEDULE.

I.—Specific Duties.

	$	s.	d.
Beer ale porter—per gallon ..	0	1	0
Cigars and cigarettes—per lb. ..	1	1	0
Caps (percussion)—per 100.. ..	0	0	1
Cider—per gallon	0	1	0
Dynamite lithofracteur—per lb...	1	0	0
Dynamite caps and detonators—per 100	1	0	0
Firearms—20 per cent. ad valorem.			
Galvanized iron in bars sheets bundles or corrugated—per ton	10	0	0
Jewellery—20 per cent. ad valorem.			
Kerosene 150° test and over—per gallon	0	0	6
Kerosene under 150° test—per gallon	0	1	6
Lead (shot and bullets)—per 100 ..	1	1	0
Methylated spirits—per gallon ..	0	2	0
Opium (including all wares containing opium)—per lb.	3	3	0
Powder (sporting) per lb.	0	0	6
Palings—per 1,000	0	2	0
Spirits (on all kinds imported the strength of which can be ascertained by Sykes' hydrometer to be over proof)—per proof gallon ..	3	2	0
Spirits (as above which are under proof)—per liquid gallon	3	2	0
Spirits (the strength of which cannot be ascertained by Sykes' hydrometer)—per liquid gallon	3	2	0
Shingles—per 1,000	0	2	0
Timber undressed—per 100 feet superficial	0	1	6
Timber dressed or surfaced—per 100 feet superficial	0	2	0
Tobacco manufactured—per lb. ..	0	2	6
Tobacco unmanufactured—per lb.	0	1	0
Wine Claret Australian in bulk or bottle—per gallon	0	1	0
Wine other kinds in bulk or bottle—per gallon	1	0	0
Wine sparkling—per gallon ..	1	2	0
Wax vestas 25 per cent. ad valorem.			

II.—Ten Per Centum Ad Valorem on each of the following Articles.—

Anchors (galvanized)
Arrowroot
oats
oots and sho es
ottled fruits
Biscuits (sweetened or fancy)
Blue
Bacon
Brushware
Basketware
Blacking
Bathbrick
Baking powder
Barley
Boxes and trunks (wood leather or metal)
Butter
Cordage and rope
Comfits confectionery
Chutney
Cheese
Candles
Cornflour
Crockery
Cordials and syrups
Clocks
Carriages carts wheeled vehicles or parts of same
Chains (galvanized)
Chain (black) 3/16 inch in diameter and under
Cutlery
Cartridges
Chinaware
Coffee cocoa chicory and chocolate

Dates
Doors
Drapery (including apparel or slops and all materials composed wholly or in part of cotton silk linen or wool)
Drugs (including all articles used as medicines)
Earthenware
Fish dried preserved and salt
Fruit dried or preserved
Furniture
Fuse
Fireworks
Floorcloth
Glass and glassware
Galvanized manufactures
Ginger
Grindstones
Gelatine
Glue
Guttapercha or indiarubber or manufacture of same in whole or in part
Hams or cured pork
Hardware
Hats
Hollowware
Hops
Honey
Ironmongery
Iron wire (black)
Isinglass
Iron bars rods plates sheets bundles rails and sleepers
Ink
Iron tanks (black)
Jams and jellies
Leather
Leatherware including all articles manufactured in whole or part of leather
Laths
Lines fishing clothes lead and similar lines
Molasses
Malt
Maizena
Matches
Matting
Musical instruments
Macaroni
Mace
Machine oil
Mouldings under six inches in width
Nails
Nuts (all kinds except cocoanuts)
Oars
Oats
Oatmeal
Oilmen's stores and oils of all kinds (except cocoanut and oil for medicinal use)
Oils perfumed
Oakum
Paints (wet or dry)
Paper (writing and fancy)
Paper (brown wrapping and printing)
Peas (split)
Perfumery
Pickles
Potted meats
Printed forms
Plate powder
Pipes (tobacco)
Pictures
Picture frames
Printing material (type paper ink)
Paper bags
Plated ware
Sandal wood
Sashes and shutters
Sugar
Snuff
Starch
Spices
Steel rails and sleepers
Soap (hard and soft)
Soda
Sauces
Sewing machines
Sails and tents
Stationery
Sponges
Steel
Tea
Treacle
Turpentine
Toys
Tapioca
Tinware
Twine
Umbrellas and parasols
Varnish
Vinegar
Vermicelli
Vegetables (preserved)
Whiting
Woodenware (including implement handles)
Workboxes
Wall paper
Whips and walking sticks
Wire rope
Zinc manufactured
Zinc in sheets rolls or pipes.

III.—List of Articles Exempt from Duty.

Animals anchors (black) biscuits (unsweetened) ballast (ships—pig and scrap iron) bêche-de-mer books and periodicals (printed) boiler-plates coin copper-sheathing chain-cables (black) over three-sixteenths of an inch in diameter coal coke copper (rods) flour felt garden seeds guano hides horns lead for lining tea-chests living oysters luggage (personal) machinery (agricultural mining sawing steam engines and boilers) meat (preserved and salt) manures metals (old) metal yellow for sheathing matting for ships' dunnage mats for sugar ores paving-stones pitch plants powder (blasting) resin shell (tortoise and pearl) skins slates for roofing South Sea Island produce tar water-pipes outside packages in which goods are ordinarily contained sulphur tin cut for exporting produce vegetables and green fruit aerated waters bags rice pepper salt saltpetre sago mustard.

IV.—General Duty.

On all articles not specified or not included in the free list an ad valorem duty of 5 per cent.

V.—Export Duty.

Silver coin over £10 2½ per cent.

Chapter XXIX.

HARBOURS AND SHIPPING.

725.—It shall be lawful for the Premier from time to time by proclamation in the Gazette to declare such place as may be expedient to be a harbour for the purposes of this Chapter or to declare by like proclamation that any such harbour shall after a specified date cease to be a harbour under this Chapter.

Premier may proclaim harbours.

726.—When any place shall be proclaimed as a harbour as aforesaid such proclamation shall state the limits and boundaries of such harbour and shall name a day on and after which pilotage rates light harbour and shipping dues shall be collected in respect of vessels entering or leaving such harbour and such pilotage rates light and shipping dues shall be levied as specified in the Schedule A to this Chapter or as may hereafter from time to time be determined by the Premier with the approval of the Privy Council and published in the Gazette. Provided that it shall be lawful for the Premier by such proclamation if expedient so to do to exempt vessels entering or leaving any harbour from the payment of all pilotage rates light harbour and shipping dues and provided that at any subsequent time the Premier may by like proclamation remove such exemption.

Limits of harbour to be defined and date appointed for levying dues.

Vessels may be exempted from dues in certain cases

727.—The Premier may appoint a Harbour Master for any harbour as may be required who may also be Pilot in connection with such harbour and may also appoint any other officer or officers that may be required for carrying the provisions of this Chapter into effect and such Harbour Master and other officer or officers shall be under the general direction and control of the Premier for the time being.

Appointment of Harbour Master pilot and other officers.

728.—Every such Harbour Master when on duty as Harbour Master or Pilot shall fly on his boat a flag which shall be of large dimensions compared with the size of the boat carrying it and which shall be of two colours—the upper horizontal half white with the letters H.M. conspicuous thereon and the lower horizontal half red. Any person not being a Harbour Master or Pilot using a flag of the abovementioned description shall be deemed to have committed an offence against this Chapter. *(Compare Section 755.)*

Harbour Master when on duty shall fly a certain flag

729.—The master of any vessel making for any harbour and requiring a pilot shall in the daytime display one or other of the following signals—(1) To be hoisted at the fore the national colour usually worn by merchant ships or (2) the International Pilot Signal indicated by P.T. and at night one or other of the following signals—(1) A pyrotechnic light commonly known as a blue light every five minutes or (2) a bright white light flashed or shown at short or frequent intervals just above the bulwarks for about a minute at a time.

Signals to be made by master of vessel requiring a pilot.

730.—The master of any licensed coasting vessel of twenty tons and over not requiring a pilot shall on approaching a harbour in the daytime hoist a white flag not less than six feet by four feet at the main and the master or person in charge of any such vessel omitting to

Flag to be used by master of coasting vessel not requiring a pilot.

hoist a white flag as aforesaid shall be liable to the payment of pilotage rates harbour and shipping dues at the ordinary rate for such vessel as if it had arrived from a foreign port.

Master of vessel to comply with reasonable demands of Harbour Master.

Penalty.

731.—The master of any vessel arriving near or in any harbour shall bring to on being approached or hailed or otherwise signalled by the Harbour Master and shall comply with all reasonable directions issued by him as to the bringing of such vessel into harbour and any such master who refuses or neglects to comply with the provisions of this Section shall incur a penalty not exceeding one hundred dollars ($100) and in default of payment thereof shall be liable to imprisonment for a term not exceeding fourteen days.

Harbour Master may determine places at which vessels may anchor etc.

732.—The Harbour Master may appoint in any port the place where any vessel arriving in or present in such port shall cast anchor or moor and may at his discretion or on the request in writing of the master of such vessel cause or permit the same to be removed from one place of anchorage or of mooring to any other place or from any wharf to any other wharf or from any part of any wharf to any other part of it and may cause such acts to be done as may be necessary to facilitate such removal and for every such removal in harbour when carried out on the request of the master of any vessel there shall be paid a fee according to the Schedule annexed to this Chapter.

Master of vessel refusing to comply with directions given by Harbour Master subject to penalty.

733.—If any master of any vessel in any harbour shall refuse to anchor or moor such vessel as directed by the Harbour Master or shall remove his ship from one place to any other place within any harbour without the permission of the Harbour Master or shall not cause his ship to be removed on being required by such Harbour Master so to do or shall obstruct such Harbour Master in the removal of any vessel such master shall on conviction in a summary manner be liable to a penalty not exceeding one hundred dollars ($100) or imprisonment for a term not exceeding fourteen days.

Where vessel may be removed by Harbour Master at expense of master.

734. Any vessel not being removed forthwith when so required by the Harbour Master from any anchorage or mooring or from any wharf or from any other place within any harbour may be removed by such Harbour Master and all expenses incurred in connection with such removal may be recovered from the master of such vessel in a summary manner before a Police Magistrate and no vessel shall be cleared at the Customs till such expenses are paid.

As to vessels having on board explosive materials

735. Any vessel arriving at any harbour having on board gunpowder or any other explosive material except kerosene exceeding twelve pounds in weight or any vessel whatever having on board any cargo or material that may be considered by the Harbour Master to be of a dangerously inflammable nature shall be anchored at a place to be set apart for such vessels and shall remain there until such gunpowder explosive or such material shall have been removed from such vessel or shall have ceased to be dangerous and from the time of entering the harbour until such removal or until the Harbour Master shall consider that no danger is to be apprehended from such inflammable material the master of such vessel shall continue to fly a red flag not less than six feet by four feet from the mainmast head.

Harbour Master may order masts etc. to be struck.

736. The Harbour Master shall have power to issue such orders as to striking masts yards or booms as in his discretion he may deem fit. No swinging booms shall be used in the harbour nor shall any warps or lines be made fast from any vessel to any other vessel nor

from any vessel to any kedge wharf buoy or any other object so as to obstruct the harbour except by permission of the Harbour Master.

Swinging booms or warps.

737. The master of any vessel moored or anchored in any harbour shall on the request of the Harbour Master veer or shorten in cable and shall carry out any reasonable direction of the Harbour Master for the security of such vessel and shall if requested so to do by the Harbour Master cause to be received made fast or cast off any line warp chain or hawser from any vessel entering or leaving the harbour or shifting its position.

Security of vessels in harbour.

738. When any line warp chain or hawser shall by the direction of the Harbour Master have been received and made fast on board any vessel as hereinbefore provided no person shall let go cut or unfasten the same unless authorised to do so by such Harbour Master.

Lines warps etc. not to be let go without authority of Harbour Master.

739. Any person using dynamite gun-cotton or any other explosive or discharging any firearm within the limits of any harbour without the permission of the Harbour Master shall be guilty of an offence against this Chapter.

Use of explosives prohibited.

740. Should any vessel be sunk or stranded in any part of any harbour to the obstruction of the navigation thereof the owner or owners or the master of such vessel shall upon the receipt of an order to that effect from the Harbour Master and within the time fixed in such order clear the harbour of such vessel and of all parts of the same or of the cargo or ballast contained therein to the satisfaction of the Harbour Master and should the owner or owners or master as aforesaid fail to comply with such order the Harbour Master may direct the removal of such vessel or any part of the same or of the cargo or ballast contained therein at the expense of the owner or owners or of the master of such vessel.

Stranded or sunken vessels if obstructing navigation to be removed.

741. No person other than the owner shall without the special permission in writing of the Harbour Master destroy or demolish either partially or entirely any condemned or abandoned vessel within the limits of the harbour.

Owner of any condemned vessel may destroy same

742. The master of any vessel riding at anchor in any harbour shall exhibit from sunset to sunrise a bright white light not less than fifteen feet from deck under the forestay of such vessel and the master of any such vessel on which such light is not displayed shall on conviction thereof be liable to a fine of not exceeding twenty-five dollars ($25) and in default thereof to imprisonment for a term not exceeding seven days.

Vessels at anchor to display white light at night.

743. Any person who shall throw or cause to be thrown any rubbish ballast earth or refuse into any harbour without the permission of the Harbour Master or except at such place and in such manner as the Harbour Master may direct shall on conviction for every such offence be liable to a penalty not exceeding fifty dollars ($50) or in default of payment to imprisonment for a term not exceeding one month and any person shall in addition to any penalty inflicted as aforesaid on the order of the Harbour Master and within the time specified therein cause the removal of any such rubbish ballast earth or refuse and in the event of non-compliance with such order the Harbour Master may cause such removal to be carried into effect at the expense of such person.

Penalty for throwing rubbish ballast etc. into the harbour.



Vessels when laid up to be anchored where Harbour Master directs.

744. When any vessel is laid up in any harbour such vessel shall be anchored where the Harbour Master directs and the owner or master thereof shall provide a competent person to take charge of such vessel and should such owner or master on the request of the Harbour Master fail to comply with this provision the Harbour Master may provide such competent person at the expense of the owner or master of such vessel.

Caretaker to be provided.

Penalty for injuring property or removing marks or material.

745. If any person shall wilfully or negligently injure or destroy any wharf pier jetty beacon or lighthouse or wilfully or negligently injure destroy or remove any buoy anchor mooring dolphin or mark erected on sea or land or in any river for the convenience of navigation or if any person shall remove from or near from any wharf pier jetty or landing place in any harbour any stones sand earth or coral or any such material whatever without the permission of the Harbour Master such person shall on conviction be liable to a penalty not exceeding one hundred dollars ($100) or imprisonment for a term not exceeding one month in addition to payment of the amount of injury caused by such person.

Vessels causing obstruction to public wharves or landing places to be removed.

746. It shall not be lawful for any person to make fast to or near to any public wharf or landing-place any boat or vessel by any rope chain or other means so as to cause an obstruction at or near any such wharf or landing-place and the Harbour Master or chief officer of Customs may cause the removal of any boat or vessel forming such obstruction to any other place within the harbour at the expense of the owner or master of such boat or vessel and any person having placed such boat or vessel so as to form an obstruction as aforesaid shall on conviction be liable to a penalty not exceeding five dollars ($5) and failing payment thereof to imprisonment for a term not exceeding three days.

Penalty.

Taking in cargo at private unlicensed wharves prohibited.

747. No boat or vessel shall go alongside any private wharf or jetty in any harbour containing a Government wharf for the purpose of taking in thereat cargo intended for export beyond the Kingdom unless the shipper of such cargo shall have first obtained the permission in writing of the Premier or of some Harbour or Customs officer authorised by him to issue such permission for such shipment of goods as aforesaid and any cargo or produce found being shipped from any such private wharf or jetty shall be liable to seizure by the Harbour Master of such harbour or by any officer of Customs and may be sold for the benefit of the public revenue.

Private buoys etc. not to be laid down without permission of Harbour Master.

748. No person shall lay down in any harbour any private buoy mooring or anchor without the permission in writing of the Harbour Master and any such permission may be at any time withdrawn whereupon any such buoy mooring or anchor shall be immediately removed by the owner thereof and failing such removal by such owner it may be effected by the Harbour Master at the expense of the owner aforesaid.

As to removing ballast from any harbour.

749. No stones coral sand earth or other material shall be removed from the beach or from any part of any harbour as ballast or for any other purpose without the permission of the Harbour Master.

Application stating quantity to be made to Harbour Master to supply ballast.

750. When the owner or master of any boat wishes to employ such boat in carrying ballast to any vessel in any harbour such owner or master shall apply to the Harbour Master in writing for permission to supply such ballast and shall state what boat is to be so employed the nature and probable quantity of the ballast to be supplied and

whence it is to be procured whereupon the Harbour Master if he sees fit may grant a written permission to the person applying for ballast to supply such ballast as aforesaid. Provided always that nothing contained in this Section shall prevent the Premier from granting permission to any vessel to proceed to any place for the purpose of taking in ballast.

Proviso.

751. When any dispute shall arise between the owner or master of any boat and the master or owner of any vessel in any harbour as to the quantity of ballast that may have been supplied to such vessel the Harbour Master shall if requested so to do by the disputing parties estimate the quantity of ballast so supplied and his decision given in writing shall be final and binding on both parties.

Where dispute arises as to quantity of ballast supplied Harbour Master to decide.

752. Any person whatever who encroaches without the permission in writing of the Premier on any harbour whether by the formation of any wharf jetty stage landing-place or by deposit of any rubbish earth stones timber or by any other means whatever shall be deemed to be guilty of an offence against this Chapter and any person convicted of such offence shall in addition to any penalty that may be imposed in respect thereof remove or cause to be removed any materials constituting such encroachment.

Encroachment on harbour without permission prohibited.

753. When the services of the Police are required on board any vessel in any harbour the same shall be indicated during the day by hoisting the ensign at the main and at night by displaying two bright white lights one at the mast-head or peak and the other five feet below it.

Mode of signalling for Police.

754. Any person who shall interfere with or obstruct whether directly or indirectly the Harbour Master in the execution of his duty shall in cases not herein specifically provided for be liable on conviction in a summary manner to a penalty not exceeding fifty dollars ($50) or in default of payment to imprisonment for a term not exceeding one month.

Penalty for obstructing Harbour Master when on duty.

755. For any offence against any of the provisions of this Chapter not liable to a specific penalty a fine not exceeding fifty dollars ($50) may be imposed and in default of payment thereof imprisonment for a term not exceeding fourteen days.

Offences where no specific penalty is specified.

756. Any prosecution for any offence against any of the provisions of this Chapter shall be entered in the name of the Harbour Master.

Harbour Master to prosecute.

757. The provisions of this Chapter shall not be applied to ships of war.

Ships of war exempted.

758. The Premier with the consent of the Privy Council may from time to time frame regulations not inconsistent with the provisions of this Chapter for the better carrying into effect the provisions of this Chapter and such regulations when published in the Gazette shall have the force of law and any infringement of such regulations shall carry with it the penalty provided in Section 755 hereof.

Premier in Council may make regulations.

SCHEDULES.

SCHEDULE A.

	$	s.	d.
Vessels of sixty tons register and under	5	0	0
Vessels exceeding sixty tons register per registered ton	0	0	4
Pilotage on any vessel not to exceed	50	0	0

For every vessel in ballast and vessels carrying copra only whose cargo does not amount to half their registered tonnage if over 200 tons half the above rates shall be charged.
Pilotage shall be charged inwards and outwards.

Harbour and Shipping Dues.

Vessels from any port beyond the Kingdom per registered ton (charged inwards only). ... 0 0 3

Exemptions from Shipping Dues.

Steam vessels under contract with His Majesty's Government.
Vessels put back in distress and vessels holding coasting licenses.
Sailing vessels shown to the satisfaction of the Collector of Customs to have put in for orders only. (*Compare Section* 643.)

SCHEDULE E.

For removal in harbour of any vessel 5 0 0

Chapter XXX.

GOVERNMENT WHARVES.

Interpretation

759. In this Chapter the term "Government Wharf" shall mean any wharf the property of His Majesty's Government which has been or shall be declared to be such by any proclamation of the Premier. The public wharves at Nukualofa and Neiafu shall be held for the purpose of this Chapter to be now proclaimed Government wharves.

Vessels not permitted to go alongside wharf except with permission of Harbour Master.

760. It shall not be lawful for any vessel to go alongside of or make fast to any Government wharf except with the permission of the Harbour Master or chief officer of Customs and the master or person in charge of any vessel who shall fail to comply with the provision of this Section shall on conviction be liable to a penalty not exceeding fifty dollars ($50) or in default to imprisonment for a term not exceeding fourteen days.

Tonnage duty chargeable while lying alongside wharf.

761. When any vessel of a measurement of not less than two tons shall be placed alongside a Government wharf for the purpose of discharging or taking in cargo or landing or embarking passengers thereat or for any other purpose there shall be paid in respect of such vessel before obtaining her clearance or before she sails beyond the harbour in which such Government wharf is situated a duty per ton as specified in Schedule A. of this Chapter. Provided that the Premier may in the case of regular traders commute such duty for any period

not exceeding one year on the payment in advance of such sum and upon such other conditions as he may deem expedient in the particular case.

762. The measurement of any registered Tongan vessel or the vessel of any foreign country which has adopted the rules concerning the measurement of tonnage approved by the British Imperial Act of 17 and 18 Victoria Chapter 104 shall be deemed to be that specified in the register. The measurement of the vessel of any country that has not adopted such rules shall in the case of any dispute be determined by some competent person to be appointed by the Premier. In the case of unregistered vessels the measurement shall be determined by the Harbour Master.

Where tonnage shall be that specified in vessel's register.

763. There shall be paid in respect of any goods other than passengers' luggage landed in any port of the Kingdom and that have been imported from places beyond the Kingdom the wharfage dues as specified in Schedule E. of this Chapter and all such goods shall be landed on a Government wharf only and at the risk of the consignee. Provided that the Premier or any officer of Customs duly authorised by him so to do when special application shall be made for the purpose may if he think fit give permission in writing for the landing of any goods elsewhere. Such permission shall not exempt the goods to which it refers from the payment of wharfage dues unless granted at a time when in the opinion of the Premier or duly authorised Customs officer as aforesaid accommodation is not obtainable at a Government wharf for landing such goods. Provided further that goods known in commerce as South Sea Island produce when imported into the Kingdom for export may be landed at any Government wharf or elsewhere and shall not on account of such landing be liable to payment of any wharfage dues.

Goods brought from beyond the Kingdom to be landed only at Government wharf.

Proviso.

764. Live stock may be landed elsewhere than at a Government wharf and if so landed no wharfage dues shall be charged thereon.

Landing of live stock.

765. Payment of wharfage dues upon imported goods shall be made at the time when the entry of such goods is passed at the Custom House.

Wharfage dues to be paid on imported goods at time of entry.

766. Wharfage dues as specified in Schedule E. of this Chapter shall be paid in respect of all goods other than passengers' luggage that shall be shipped for export from the Kingdom in any vessel while lying at or using a Government wharf or that shall pass over such wharf for the purpose of such export or in respect of any live stock that shall pass over the wharf for the purpose of shipment. Provided that only half of the rate of dues specified in such Schedule shall be charged with reference to produce of Tonga and of the South Sea Islands.

As to wharfage dues chargeable on exported goods.

767. If any goods landed at a Government wharf or brought there for shipment shall be allowed to remain on such so as to impede the traffic thereon it shall be lawful for the Collector or other officer of Customs to cause such goods to be removed and stored at the expense of the consignee or shipper.

If any goods impede traffic on wharf how dealt with.

768. Any goods in respect of which there shall be any neglect or refusal to pay the dues appointed to be paid by this Chapter may be seized and detained at the expense and risk of the owner consignee or exporter as the case may be and after the expiration of fourteen days from the date of seizure may be sold by public auction and there shall be paid out of the proceeds of sale all Custom and wharfage dues and

Where neglect or refusal to pay dues is made goods may be seized.

all storage and other expenses incurred in respect of such goods and the surplus if any after such payments have been made shall be paid into the Treasury and if not claimed by the owner of the goods aforesaid within twelve months shall be forfeited to the Crown.

769. Should any goods as aforesaid be unsaleable or should their condition or value be such that the proceeds of sale would not in the opinion of the Premier pay the necessary expenses of sale by public auction such goods may be destroyed and neither the owner thereof nor any person or persons shall have any claim against any officer of Customs nor against the Crown for the destruction of such goods.

Goods, etc., may be removed.

Person may be ordered to leave the wharf.

Penalty for refusal.

770. Whenever it shall appear necessary to any officer of Customs or Police officer it shall be lawful for them to cause to be removed any case or package or vehicle found upon any Government wharf and also to prevent any person from coming thereon and also to order any person already there to leave and any person neglecting or refusing to leave such place when requested so to do may be taken into custody without a warrant by any such officer of Customs or Police officer and shall upon conviction before any Police Magistrate be liable to a fine not exceeding five dollars ($5) or in default to imprisonment for a term not exceeding twenty-one days.

Penalty for resisting officers.

771. Any person assaulting resisting interfering with or interrupting any officer of Customs in the discharge of his duties in connection with this Chapter shall be liable on conviction in a summary manner to a penalty not exceeding one hundred dollars ($100) or in default to imprisonment for a term not exceeding three months.

Prosecution to be entered in name of Harbour Master.

772. Any prosecution for any offence against any of the provisions of this Chapter shall be entered in the name of the Harbour Master.

Schedules may be altered.

773. The Premier with the approval of the Privy Council may from time to time make alterations or additions in the Schedules of this Chapter and any such alterations or additions so approved shall have the force of law when published in the Gazette.

SCHEDULES.

SCHEDULE A.

Tonnage duty for one day or any part thereof:—

	$	s.	d.
Vessels of 2 tons to 10 tons	1	0	0
,, 10 ,, 20 ,, ...	1	2	0
,, 20 ,, 30 ,, ...	2	2	0

,, 30 ,, 150 ,, $2 2s. for the first 30 tons and 2d for every additional ton.

Vessels of 150 tons to 250 tons $7 2s. for the first 150 tons and 1½d. for every additional ton.

Vessels of 250 tons to 500 tons $10 2s. 6d. for the first 250 tons and 1d. for every additional ton.

Vessels over 500 tons $15 3s. 4d. for the first 500 tons and ½d for every additional ton.

No vessel to pay more than $25 a day.

SCHEDULE E.

General Rates.

	s.	d.
For each Basket ...	0	2
,, Carboy...	0	2
,, Caroteel	0	2
,, Demijohn	0	2
,, Drum ...	0	2
,, Firkin ...	0	2
,, Half-chest	0	2
,, Jar	0	2
,, Keg	0	2
,, Quarter-sack	0	2
,, Package under five (5) cubic feet...	0	2
,, Bag	0	3
,, Sack	0	3
,, Barrel ...	0	3
,, Quarter-cask	0	3
,, Kilderkin	0	3
,, Tub	0	3
,, Octave...	0	3
For every Package not otherwise specified if five (5) cubic feet or over	0	3
For each ten (10) cubic feet or part of ten (10) cubic feet	0	3
,, Crate ...	0	9
,, Hogshead	0	9
,, Tierce ...	0	9
,, Pipe	1	0
,, Butt	1	0
,, Puncheon	1	0
,, Leaguer	1	0
,, Tank ...	2	6

For " Empties " half the above rates.

Special Rates.

	s.	d.
Live stock actually passing over the wharf as follows :—		
Horses mules asses and horned cattle each	0	6
Sheep pigs and goats each	0	3
Anchors cables and chains per cwt.	0	1½
Ballast for ships other than iron per ton	0	6
Bananas per bunch	0	0½
Bricks tiles and slates per 100	0	3
Boilers (engine) per cwt. ...	0	3
Cotton per bale ...	0	4
Cotton per bag ...	0	0½
Coals and coke in bulk per ton	0	6
Copra, Candlenuts, Fungus } per cwt.	0	1
Pearlshell shark-fins beche-de-mer per cwt.	0	1
Cocoanuts per 100	0	1
Doors and pairs of sashes each	0	2
Engines (fire and steam) per cwt. ...	0	3
Cocoanut fibre per cwt.	0	1
Galvanized iron—wire sheet bundle or case per cwt.	0	1½
Gravestones each parcel or package	0	6
Hay and straw per bale ...	0	6
Iron in bar rod sheet bundle pig tire-wheels wire pots camp ovens pipes and rails per cwt.	0	1½
Laths and palings per 100	0	3
Mouldings and architraves per 100 running feet	0	3
Oars per dozen ...	0	4
Lead in any form per cwt.	0	1½
Machinery per cwt.	0	1½
Pianos and harmoniums each	2	6
Shingles per 1,000	0	4
Staves and shooks per 100	0	3
Spars per running foot	0	0½
Timber per hundred superficial feet	0	1½
Yams kumalas potatoes in bulk per cwt.	0	1
Carrots onions turnips in bulk per cwt.	0	3
Posts and rails per 100	2	0
Hides and skins each	0	1

Chapter XXXI.

POST OFFICE.

Establishment of Chief Post Office and appointment of officers.

774. The Premier shall establish a Chief Post Office and appoint a Chief Postmaster and may establish or appoint such other post offices or officers as may be necessary for the purposes of this Chapter.

Regulations.

775. The Premier shall from time to time make regulations for the establishment and management of post offices and the receipt despatch carriage and delivery of letters packets and newspapers and for the conduct and guidance of all postmasters and other officers and servants of the Post Office and such regulations shall be published in the Gazette and when so published shall be of the same force as if embodied in this Chapter.

Declaration to be made by officers upon appointment

776. The Chief Postmaster and every other officer appointed under this Chapter shall before acting as such officer make and subscribe a declaration before a Police Magistrate in the form contained in Schedule A. hereto.

Definition of town country and foreign letters etc.

777. Town letters packets and newspapers shall mean any letters packets and newspapers received at any post office for delivery at such post office or at any place within the limits of the city or town in which such post office is situated and country letters packets and newspapers shall mean all letters packets and newspapers to be transmitted by post between separate post towns or places within the Kingdom and foreign letters packets and newspapers shall mean all letters packets and newspapers received from any place beyond the Kingdom or received at any post office for delivery beyond the limits of the Kingdom.

Packets defined.

778. The following shall be deemed "packets" within the meaning of this Chapter :—

Bank books.

1. Bankers packets (in covers open at the ends or sides) containing notes orders cheques or pass-books sent by or to any bank or banker :

Proceedings in Court.

2. Packets (in covers open at the ends or sides) containing process of or proceedings or pleadings in any Court briefs cases and instructions for counsel and their opinions thereon respectively deeds affidavits policies of assurance letters of attorney depositions or recognisances :

Patterns and samples.

3. Packets (in covers open at the ends or sides) containing patters or samples of merchandise not having a value of their own apart from their mere use as patterns or samples and either unenclosed or enclosed in transparent bags or in bags tied round the neck so as to be easily loosened and refastened :

Catalogues.

4. Packets (in covers open at the ends or sides) containing prices current and catalogues :

5. Packets (in covers open at the ends or sides) containing Acts of Tonga or official reports and returns or copies of official reports and returns made by or to any officer in the public service :

Ordinances and Acts.

6. Packets (in covers open at the ends or sides) containing script pamphlets maps plans specifications music photographs on paper magazines reviews placards almanacs prospectuses paintings engravings printers' proofs writing paper music paper or periodical publications :

Plans etc.

7. Packets (in covers open at the ends or sides), containing printed or plain books :

Books.

8. And (as town and country packets) packets containing seeds in bags tied so as to be easily loosened and refastened.

Samples of seeds.

779. Every parcel by whatsoever name called or however made up which shall be received at any post office for delivery shall if not a packet according to the preceding Section or a newspaper be deemed a letter and charged for as such.

Parcels not packets charged for as letters.

780. Every newspaper shall be sent without a cover or in a cover open at both ends and there shall not be in or upon any such newspaper or the cover thereof any communication character figure letter or number (other than the words "newspaper only" or a line drawn through any report article or paragraph therein the printed title of such newspaper the printed names occupations and places of business of the printer publisher and vendor thereof the name occupation and address of the person to whom it is sent) nor shall anything be enclosed in or with or accompany such newspaper or cover otherwise such newspaper shall not be transmitted or delivered.

How newspapers are sent.

781. The Premier may from time to time impose and alter fees to be paid upon letters packets and newspapers registered under this Chapter or posted after the time appointed by the Chief Postmaster for closing the mails and for the use of private boxes and private bags.

Extra fees.

782. There shall be charged for redirected letters the same postage in addition to the original postage as would ordinarily be charged for letters posted at the place of redirection for the place of ultimate delivery.

Fee on redirected letters.

783. Every Postmaster may refuse to receive or to transmit by post any letter packet or newspaper exceeding sixteen ounces in weight or of inconvenient form or dimensions or containing or reasonably suspected to contain any article likely to injure the other contents of the mail bags or any person.

Discretion of postmaster as to receiving letters etc. of inconvenient size.

784. The Premier may authorise postage stamps indicating such amounts as may from time to time be deemed necessary for the purposes of this Chapter to be made and sold to any person applying for them.

Postage stamps may be made.

785. Every Postmaster shall keep on hand for sale without premium such quantities of postage stamps as shall be deemed sufficient and shall sell them to any person applying for them.

Postmasters to keep stamps for sale.

786. Except in the cases expressly herein mentioned in that behalf or in cases where any arrangement shall be made with the proper authorities of any foreign country as hereinafter provided for the

Postage to be prepaid by stamps.

postage upon every letter packet and newspaper and all fees (if any) upon such letter packet or newspaper shall be prepaid and such prepayments respectively shall be made by affixing thereon postage stamps not obliterated or defaced and in default thereof such letter packet or newspaper shall not be transmitted or delivered but opened by the proper officer and returned to the writer. Provided that postage on loose letters received from masters of vessels from places beyond the Kingdom may be collected on delivery.

Cases in which coin may be received.

787. Notwithstanding the enactment lastly hereinbefore contained whenever it may happen that any Postmaster shall not have any postage stamps of the requisite value for sale the postage and fees (if any) upon any letter packet or newspaper may be prepaid in coin and shall be acknowledged by such Postmaster on the face or cover of such letter packet or newspaper.

Letters etc. insufficiently stamped but bearing lowest postage to be sent but double charge made on delivery.

788. If any town or country letter bears postage stamps equal in value to the proper postage as a town letter not exceeding one half-ounce in weight or if any town or country packet bears postage stamps equal in value to its proper postage as a packet not exceeding four ounces in weight such letter or packet (as the case may be) shall notwithstanding the provisions hereinbefore contained be regularly transmitted and delivered but before such delivery in Tonga there shall be paid double the amount of postage which shall have been omitted to be prepaid as hereinbefore directed and the sum to be so paid shall be written on such letter or packet by the Postmaster who transmits the same.

All foreign letters to be prepaid.

789. Except in the cases expressly herein mentioned or in cases where any arrangement shall be made with the proper authorities of any Foreign Country as hereinafter provided for every Postmaster shall see that every letter packet and newspaper bears either postage stamps or a proper acknowledgment for coin respectively equal in value or amount to the postage and fees due thereon.

Stamps to be affixed on face of letter.

790. The postage stamps upon all letters packets and newspapers shall be affixed upon the face thereof respectively and near the address written thereon and no Postmaster shall be bound to take any notice of stamps which shall be affixed elsewhere.

Returns of marriages etc. need not be stamped.

791. It shall not be necessary to prepay by stamps or otherwise the postage ordinarily prepaid upon letters or packets containing only returns of births baptisms marriages and deaths transmitted in compliance with the provisions of the law in that behalf by ministers of religion or other parties whose duty it is to transmit such returns to any Officer appointed to receive them.

Letters may be registered.

792. Any person who shall send any letter packet or newspaper by post shall be entitled to have it registered at the post office at which it shall be posted upon payment of the proper fee for registration but such registration shall not render the Crown or the Postal Department or any person liable for the loss of any such letter packet or newspaper. And all letters packets or newspapers required to be registered shall be put into the post office and also be delivered at or between such hours in the day and under such regulations in every respect as the Premier shall from time to time appoint.

Letters containing money or valuables may be

793. In any case where it shall come to the knowledge of any Postmaster or Officer of the Post Office or where any Postmaster or Officer of the Post Office has reasonable cause to believe that any letter

or packet not registered under this Chapter contains any money or other valuable enclosed it shall be lawful for such Postmaster or Officer to register such letter or packet and to charge it with the proper fee for registration and such fee shall be paid by the person to whom it is addressed before delivery unless such person shall before such delivery open the letter in the presence of some Postmaster or Officer of the Post Office and it shall be found not to contain any money or other valuable enclosure in which case such fee shall be remitted and the sum to be so paid shall be written on such letter or packet by the Postmaster or Officer of the Post Office who registered it. Provided that nothing herein contained shall apply to letters or packets containing exclusively bills of exchange or promissory notes payable to order. registered by postmaster.

794. Except in the cases expressly herein mentioned no letter packet or newspaper whatever shall under any circumstances be destroyed or returned to the writer or sender thereof without either the consent in writing of the person to whom the same is addressed or the direction of the Premier and no letter packet or newspaper shall be delivered to any person not named in the address thereof without such consent or direction as aforesaid.

Letters etc. not to be destroyed or returned to sender.

795. All letters papers and newspapers which shall have remained undelivered at any post office where posted or to which the same have been transmitted for delivery shall be kept thereat for a period of sixty days and at the expiration of such period of sixty days the same shall be forwarded to the Chief Post Office and the Chief Postmaster or other officer in immediate charge of the Post Office Department shall forthwith cause the addresses of all such letters and packets so forwarded to him to be inserted in a list to be openly exposed at the Chief Post Office and in all the country post offices.

Undelivered letters—how dealt with.

796. The Chief Postmaster or other officer in immediate charge of the Post Office Department shall at least once in six months cause a list to be published in the Gazette of all letters and packets which shall remain undelivered at the Chief Post Office since the preceding publication of the like kind and after a period of six months from the date of such publication such of the letters and packets mentioned therein as shall have been originally posted in Tonga or after a period of twelve months such as shall have been originally posted elsewhere and shall remain undelivered may be disposed of in manner hereinafter mentioned.

Unclaimed letters to be gazetted.

797. On the receipt at the Chief Post Office of any letter packet or newspaper hereinbefore required to be transmitted to such office such letter or packet if it was originally posted in this Kingdom or if it has been posted or contains any enclosure or be reasonably suspected to have been posted or to contain any enclosure in fraud or violation of this Chapter cr of any Chapter relating to the Customs or of any regulation or order made under the authority of this Chapter may be opened in the said last-mentioned office in the manner hereinafter mentioned and every such letter and packet if it was originally posted elsewhere shall except as last aforesaid be returned to the proper authorities in the colony or country in which it was so posted but every such newspaper wheresoever it was originally posted shall be opened in the same place and manner as letters and packets originally posted in Tonga.

Unclaimed letters may be returned to place where posted or opened and returned to writer.

798. Every letter packet and newspaper which shall be opened under the provisions of this Chapter shall be opened by the Chief Postmaster or other officer in immediate charge of the Post Office Depart-

How letters are to be opened.

ment. And every such officer shall before he shall enter upon his duties in this respect make and subscribe before a Police Magistrate a declaration in the form in Schedule B hereto which declaration such Magistrate is hereby authorised and required to receive and if any such officer shall act before making and subscribing such declaration or shall act contrary to such declaration he shall be guilty of a misdemeanour and on conviction thereof shall forfeit any sum not exceeding two hundred and fifty dollars ($250).

(Police Court. Minister of Police or Chief Postmaster to prosecute.)

Opened letters to be returned to writer.

799. Every letter and packet which shall be opened under the provisions of this Chapter (unless it contains any valuable or saleable enclosure or shall have been posted or shall contain any enclosure in fraud or violation of this Chapter or any Chapter relating to the Customs or of any regulation or order made under the authority of this Chapter or with intent to evade payment of the postage properly chargeable thereon) shall be returned to the writer or sender thereof if his name and address can be ascertained by examination of such letter or packet but if he shall refuse to receive such letter or packet or if his name and address cannot be ascertained such letter or packet may be forthwith destroyed.

Contracts for carriage of mails may be made.

800. The Premier or any person authorised in that behalf by him may enter into contracts in writing on behalf of the Government for or in respect of the carriage of mails by land or sea or both for a fixed sum or for a sum depending on the number or weight of the letters packets or newspapers so carried and may impose terms and conditions as to him shall seem fit as to the vehicles and vessels to be employed the time of departure and arrival and otherwise for securing the due regular and efficient performance of the contract.

loose letters, etc, carried on vessels to be delivered to postmaster.

801. All mails and every loose letter packet or newspaper which at the time of the arrival of any vessel within any port or place in Tonga from any port or place beyond the same shall be on board thereof directed to any person in Tonga shall be delivered to the Postmaster or port officer of such port or to any person duly authorised in that behalf by writing under the hand of the Chief Postmaster or other officer in immediate charge of the Post Office. And any person who shall knowingly or negligently detain or keep in his possession or shall neglect or refuse to deliver any mail bag mail box or mail parcel or any letter packet or newspaper shall on conviction thereof forfeit a sum not exceeding five hundred dollars ($500). Provided always that nothing in this Section shall apply to letters concerning goods on board such vessel and to be delivered with such goods or containing any commission writ or affidavit or sent by way of introduction only or concerning the bearer's private affairs.

Master to sign declaration that letters have been so delivered.

802. The master or person in charge of any vessel arriving at any port or place in Tonga from any port or place beyond the Kingdom shall as soon as practicable after such arrival sign in the presence of the Postmaster or other officer appointed to receive it at such port or the town or place nearest thereto a declaration in the form contained in Schedule C hereto and thereupon such Postmaster or officer shall grant a certificate under his hand of the making thereof and until such certificate shall have been delivered to the proper officer of Customs at such port he shall not permit such vessel to report. And any master or person in charge as aforesaid who shall fail or refuse to make such declaration or who shall make a false declaration shall on conviction thereof forfeit any sum not exceeding five hundred dollars ($500).

(Police Court. Minister of Police or Chief Postmaster to prosecute.)

803. No payment shall be made to the master or other person in charge of any vessel arriving from any port or place beyond the Kingdom for the conveyance of any mail bag mail box or mail parcel on which payments have already been made at the port of departure.

No payment for carriage of mails to vessels already paid at port of departure.

804. If any master or person in charge of any vessel about to depart from any port in Tonga to any other port or place beyond the Kingdom shall (after being thereto required by any officer of the Post Office or by any port officer or by any person duly authorised in that behalf by such writing as aforesaid) refuse or neglect to receive on board such vessel any mail bag mail box or mail parcel or to give a receipt for the same being thereto required by the person tendering or delivering such bag box or parcel or shall refuse or neglect carefully to deposit such bag box or parcel in some secure and dry place on board of such vessel or to convey the same upon her then intended voyage such master or person shall for every such offence forfeit a sum not exceeding five hundred dollars ($500).

Penalty for refusing to receive mail on board.

(Police Court. Chief Postmaster to prosecute.)

805. No letters packets or newspapers shall be carried on board any vessel proceeding from any port in Tonga to any port or place beyond the Kingdom otherwise than by post and whosoever contrary to the provisions of this Section shall send or convey any letter otherwise than by post shall on conviction thereof forfeit for every such letter a sum not exceeding two hundred and fifty dollars ($250).

Letters not to be carried except by post.

(Police Court. Chief Postmaster to prosecute.)

606. Every master or person in charge of any vessel about to depart from any port or place in Tonga to any port or place beyond the Kingdom who shall receive on board thereof any such mail bag mail box or mail parcel for the purpose of conveying the same according to the direction thereof shall be entitled immediately to demand and receive from the person tendering or delivering the same for the carriage thereof the sum of one penny (1d.) for every letter and packet contained therein such master or person giving a receipt for the amount so received by him. But nothing herein contained shall entitle the master or person in charge of any vessel under contract for the carriage of mails to receive payment for the same as aforesaid.

Payment for carriage of foreign mails.

607. Every master or person in charge of any coasting vessel shall receive and deliver the country mails according to the direction thereof at the several ports or places at which they may touch free of charge and every master or person who shall refuse or shall wilfully neglect to receive or deliver such mails shall for every such offence forfeit a sum not exceeding fifty dollars ($50) and shall be liable to the suspension or forfeiture of the coasting licenses of their vessels at the discretion of the Court.

Coasting vessels to carry mails.

808. No country letters excepting letters concerning goods on board the vessel carrying such letter or any letter *bonâ fide* sent or carried to or from a post office or sent by way of introduction only or concerning the bearer's private affairs shall be sent transmitted or conveyed by any coasting vessel otherwise than by mail and any person offending against the provisions of this Section shall upon conviction forfeit a sum not exceeding fifty dollars ($50). Provided always that nothing herein contained shall apply to letters *bonâ fide* sent or carried on board of any coasting vessel proceeding to or from any port or place at which no post office has been established.

All country letters to go by post.

Proviso.

Masters of vessels to give notice of departure and of postponed departure.

809. Every master or person in charge of any vessel excepting those under a contract for the carriage of mails and being about to depart from any port or place in Tonga to any other port or place within the Kingdom or to any port or place beyond the limits thereof shall before the clearance outwards or sailing of such vessel give to the Postmaster or officer in charge of the post office at the port or place from which such vessel shall be about to depart not less than twelve hours' notice in writing of the intended time of departure of such vessel or not less than twenty-four (24) hours' notice as aforesaid at the port of Nukualofa. And every such notice shall expire between the hour of nine (9) o'clock in the forenoon and five (5) o'clock in the afternoon. And every such master or person in charge as aforesaid shall also from time to time give notice to such Postmaster or officer as aforesaid of any postponement of such time of departure and such Postmaster or other officer of the Post Office shall upon receiving such notice grant a certificate to such master or person and until such certificate shall have been given the vessel shall not be cleared.

Mails to be given up on demand.

810. Whenever the master or person in charge of any vessel shall have received any mail bag mail box or mail parcel for carriage on board of such vessel and such vessel shall not depart on her voyage according to the time fixed for the departure thereof such master or person as aforesaid shall upon demand return to the Postmaster port officer or other person duly authorised in that behalf by writing under the hand of the Chief Postmaster or officer in immediate charge of the Post Office such mails and also any gratuity which may have been paid for the carriage of such mails and in default of so doing shall on conviction thereof forfeit a sum not exceeding one thousand dollars ($1,000).

(Police Court. Chief Postmaster to prosecute.)

Penalty for delaying etc. mails.

811. Any Postmaster port officer master of a vessel or person duly authorised to receive or despatch any mail bag mail box or mail parcel or any letter packet or newspaper who shall neglect or fail to despatch or shall retard the despatch thereof by post shall on conviction thereof forfeit a sum not exceeding five hundred dollars ($500).

(Police Court. Chief Postmaster to prosecute.)

Penalty for forging etc. stamps.

812. Whosoever shall fraudulently forge alter or imitate or assist in forging altering or imitating or shall use offer utter dispose of or put off knowing the same to be forged altered or imitated any stamp issued or made under the authority of this Chapter shall be guilty of felony and on conviction shall be liable at the discretion of the Court to imprisonment with or without hard labour for a term not exceeding four years.

(Supreme Court with Jury. Minister of Police to prosecute.)

Penalty for having in possession any plate etc. for printing stamps.

813. Whosoever without lawful authority or excuse (the proof whereof shall be on the party accused) shall make or cause or procure to be made or shall aid or assist in making or shall knowingly have in his custody or possession any plate peculiarly employed for printing any stamp used for the purposes of this Chapter or any Act relating to postage or any die or seal peculiarly used for preparing any such plate or any plate die or seal intending to imitate any such plate die or seal as aforesaid shall be guilty of felony and on conviction thereof shall be liable at the discretion of the Court to be imprisoned with or without hard labour for a term not exceeding four (4) years.

(Supreme Court with Jury. Minister of Police to prosecute.)

814. Whosoever without lawful authority or excuse (the proof whereof shall lie on the party accused) shall sell purchase dispose of or receive or knowingly have in his custody or possession any such plate die or stamp as in the last two preceding Sections mentioned shall be guilty of a misdemeanour and on conviction thereof shall be liable at the discretion of the Court to be imprisoned with or without hard labour for a term not exceeding two years.

Penalty for having in possession such moulds etc.

(Police Court. Chief Postmaster to prosecute.)

815. Whosoever shall with a fraudulent intent remove from any letter packet or newspaper respectively sent by post any stamp which shall have been affixed thereon or wilfully remove from any stamp which shall have been previously used any mark which shall have been made thereon at any post office or shall knowingly offer utter put off or use any such stamp shall be guilty of a misdemeanour and shall be liable at the discretion of the Court to be imprisoned with or without hard labour for a term not exceeding three years.

Penalty for removing stamp from letter etc.

Supreme Court with Jury. Minister of Police to prosecute. This offence is not a felony.)

816. Whosoever shall knowingly and fraudulently put into any post office anything purporting to be a letter packet or newspaper within any of the exemptions hereinbefore in this Chapter mentioned or any letter purporting to belong to a class in which a postage of a penny only is chargeable or shall knowingly and fraudulently put into any post office any packet in or upon which or the cover whereof there shall be any letter communication or intelligence not allowed by law or shall wilfully subscribe on the outside of any packet a false statement of the contents thereof or shall knowingly and fraudulently put into any post office any newspaper in or upon which or the cover whereof there shall be any communication character figure letter or number (other than a line drawn through any report article or paragraph therein the printed title of such newspaper the printed names occupations and places of business of the printer publisher and vendor thereof the name occupation and address of the person to whom it is sent and words "newspaper only") or in or with which anything shall accompany or shall wilfully place the words "newspaper only" on any newspaper or thing purporting to be a newspaper or on the cover thereof respectively knowing the same to be untrue or shall knowingly put into any post office in Tonga any letter packet or newspaper bearing an obscene profane or libellous address or signature shall on conviction thereof forfeit a sum not exceeding two hundred and fifty dollars ($250).

Penalty for fraudulently posting letter etc.

(Police Court. Chief Postmaster to prosecute.)

817. Any postmaster or officer or servant employed in the Post Office or any master of a vessel or other person employed or authorised by or under any postmaster to receive sort carry or deliver any mail bag mail parcel or mail box or any letter packet or newspaper sent by post or otherwise employed in the business of the Post Office who shall offend against or wilfully neglect or omit to comply with any of the arrangements or regulations to be made as hereinbefore in this Chapter mentioned or with any of the provisions of this Chapter (for breach or neglect of which no other punishment is hereby provided) shall on conviction thereof forfeit a sum not exceeding two hundred and fifty dollars ($250).

Penalty on officers for breach of regulations etc.

(Police Court. Chief Postmaster to prosecute.)

818. Any person employed by or under the Post Office who shall negligently lose or who shall wilfully detain or delay or procure or suffer to be detained or delayed any mail bag mail box or mail

Penalty for losing etc. letters etc.

parcel or any letter packet or newspaper shall on conviction thereof forfeit a sum not exceeding one hundred and twenty-five dollars ($125).

(Police Court. Chief Postmaster to prosecute.)

Penalty for wilfully retaining or detaining mail bag etc.

819. Whosoever shall wilfully retain secrete keep or detain any mail bag mail box mail parcel letter packet or newspaper which ought to have been delivered to any other person or any mail bag mail box mail parcel letter packet or newspaper which shall have been found by the person secreting keeping or detaining the same or by any other person shall be guilty of a misdemeanour and on conviction thereof shall be liable at the discretion of the Court to be imprisoned with or without hard labour for a term not exceeding two years.

(Police Court. Chief Postmaster to prosecute.)

Penalty for falsely inducing delivery of letters etc.

820. Whosoever shall by means of any false pretences or misstatement induce any postmaster or other officer or servant of the Post Office to deliver to such person any letter packet or newspaper sent by post and not addressed to such person shall on conviction thereof forfeit a sum not exceeding two hundred and fifty dollars ($250).

(Police Court. Chief Postmaster to prosecute.)

Penalty for stealing letters etc.

821. Whosoever shall fraudulently take from the possession of any postmaster or other officer or servant of the Post Office or from any post office or place appointed for the receipt or delivery of letters or shall steal or for any purpose embezzle take secrete or destroy any mail bag mail box mail parcel letter packet or newspaper sent by post or any part thereof respectively shall be guilty of felony and on conviction thereof shall be liable at the discretion of the Court to be imprisoned with or without hard labour for a term not exceeding four years.

(Supreme Court with Jury. Minister of Police to prosecute.)

Penalty on officer for tampering with mail bag etc.

822. If any postmaster or other officer or servant of the Post Office shall contrary to his duty open or tamper with or procure or suffer to be opened or tampered with any mail bag mail box or mail parcel or any letter packet or newspaper he shall be guilty of a misdemeanour and shall on conviction thereof be liable to be imprisoned with or without hard labour for a term not exceeding three years.

(Supreme Court with Jury, Minister of Police to prosecute. This offence is not a felony.)

Penalty for creating disturbance.

823. Any person creating a disturbance on the premises of any post office shall on conviction thereof forfeit a sum not exceeding twenty five dollars ($25).

(Police Court. Police or Chief Postmaster to prosecute.)

Penalty for obstructing mail.

824. Whosoever shall wilfully obstruct or retard the conveyance or delivery of any mail shall upon conviction thereof forfeit a sum not exceeding one hundred dollars ($100).

(Police Court. Chief Postmaster to prosecute.)

Penalty for sending dangerous substance by post.

825. Whosoever shall enclose in or with any letter packet or newspaper or shall put into any post office or place appointed for the receipt of letters packets or newspapers to be sent by post any explosive dangerous or destructive substance or liquid or any matter or thing likely to injure any person shall be guilty of felony and shall be liable on conviction thereof at the discretion of the Court to be imprisoned with or without hard labour for a term not exceeding seven years.

(Supreme Court with Jury. Minister of Police to prosecute.)

826. All pecuniary penalties inflicted under this Chapter when not paid within the time appointed by the Court shall be levied by distress.

827. Every mail bag mail box mail parcel letter packet or newspaper in charge of or being carried by any postmaster postman mailman officer or servant of the Post Office or other person employed by or under the Post Office shall in every proceeding whatever be deemed and taken to be sent by post unless the contrary be proved.

Mail bags etc. in charge of postmaster etc. to be deemed to be sent by post.

828. If any action or suit shall be commenced against any postmaster or other officer or servant of the Post Office for damages on account of anything done or omitted to be done in pursuance of this Chapter the same shall be commenced within twelve months after the fact committed or omitted and not afterwards. And no such action shall be commenced until one month after notice thereof and of the cause thereof shall have been delivered to the defendant or left for him at his usual place of abode by the party intending to commence such action and upon the back of such notice shall be endorsed the name and place and abode of business of the plaintiff and his attorney or agent. And if it shall appear that the action was commenced after the time before limited for bringing the same the Court shall find for the defendant.

Limitation of actions against officers.

829. All moneys levied and received and all penalties imposed under the provisions of this Chapter shall be paid to the Treasurer for the use of the Kingdom.

Disposal of fees fines and forfeitures.

SCHEDULES.

SCHEDULE A.

I [A.B.] do solemnly and sincerely declare that I will not willingly or knowingly open detain return or delay or cause or suffer to be opened detained returned or delayed any letter or packet which shall come into my hands power or custody by reason of my employment relating to the Post Office except by the consent of the person or persons to whom such letter or packet shall be directed or by an express warrant in writing for that purpose under the hand of the Premier or except in pursuance and under the authority or any of the provisions of any Chapter now or hereafter to be in force relating to the Post Office or of any regulations made in pursuance of such Chapter.

Declared before me one of His Majesty's Police Magistrates in and for the Kingdom this day of 18

SCHEDULE E.

I [A.B.] do declare that I will be true and faithful in the execution of the trust committed to my charge and that I will not intentionally read the contents of any letter or packet which I may open under the provisions of any Chapter now or hereafter to be in force relating to the Post Office except so far as it may be necessary for the purpose of ascertaining the name and address of the writer or sender thereof and that I will not divulge to any person whatsoever except the Chief Postmaster or other officer in immediate charge of the Post Office any of the contents of any such letter or packet.

Declared before me one of His Majesty's Police Magistrates in and for the Kingdom this day of 18

SCHEDULE I.

I [A.B.] do solemnly declare that I have to the best of my knowledge delivered to [C.D.] every mail bag mail box mail parcel letter packet and newspaper that were on board the [*name of vessel*] at the time of her arrival at except such letters as are exempted by law from such delivery.

Signed in my presence the day of 18

Chapter XXXII.

EDUCATION.

Minister of Education.

830. The Minister of Education shall have the control of the Government College and all the village schools in the Kingdom and shall have power to appoint an Assistant Minister and Inspectors of Schools and Schoolmasters who shall draw up regulations for the various schools and be responsible for the condition of the school buildings and schoolmasters' houses and the duty of Minister of Education shall be discharged by the Premier.

School committees.

831. He shall have power to appoint committees in the various districts to assist him in the control of the schools and in the periodical inspection of school buildings who shall report to him from time to time upon the schools.

Catholic school-masters.

832. He shall have power to appoint Roman Catholic school-masters to the various villages where there are Catholic children should there appear to be a sufficient number to call for such appointment.

School books.

833. The Wesleyan version of the Bible shall be used in the Wesleyan schools and the Roman Catholic version of the Bible shall be used in the Roman Catholic schools. The Minister of Education shall appoint the various books to be used in the schools and shall have power to direct that special books be used in the Catholic schools.

Religious instruction.

834. It shall be lawful for ministers of every denomination to visit the schools on Wednesday in each week from nine o'clock a.m. to ten o'clock p.m. to give religious instruction to the children of their respective denominations.

School Buildings.

School-houses.

835. School houses shall be built in such towns as the Minister of Education shall direct and shall be of native construction and of sufficient dimensions to contain all the children of the village and it shall be unlawful to hold school in any other building than the Government school-house.

Mode of building school-houses.

838. Whenever a school-house is to be built the Mayor shall apportion the work among the tax-payers in his village and in cases where two or more villages combine for one school the work shall be apportioned among the tax-payers of every such village and whoever

shall neglect to assist in building any school-house when directed to do so as aforesaid shall on conviction be liable to a fine of not exceeding ten dollars ($10) or be imprisoned with hard labour for a term of not exceeding one month in default of payment. And the women of each village shall make mats for the floor of the school-house and any woman who shall neglect to take part in such work when ordered to do so shall on conviction be liable to a penalty of one dollar ($1) or be imprisoned with hard labour for four days in default of payment.

837. Schoolmasters' houses shall be erected in the various villages in the manner provided in the last preceding Section and whoever shall neglect to assist in building such house after having been ordered to do so shall on conviction be liable to the penalty laid down in the last preceding Section provided that the Schoolmaster shall have the use of a suitable allotment from which to support himself and pay his taxes whether the village be situated upon the estate of any noble or upon Crown lands.

Schoolmasters' houses.

SCHOOLMASTERS.

838. It shall be lawful for the Minister of Education to appoint a Committee to examine applicants for the post of Schoolmaster and the members of such committee shall not exceed seven in number of whom two shall be Roman Catholics but if there are less than seven members one only shall be a Roman Catholic. A chairman shall be appointed from the members of such committee.

Examining committees.

839. An annual examination shall be held at Nukualofa and in Haapai and Vavau at which any person may present himself for examination in accordance with the rules laid down by the Minister of Education and the committee shall deliver to every person of whose proficiency they are satisfied a certificate in the following form :—

Certificates.

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To of

I hereby certify that you have been examined by us at and that your proficiency in the various subjects in which you have been examined was as follows:—

Handwriting	1 to 10
Reading	1 to 10
Biblical Knowledge	1 to 10
Mathematics	1 to 10
Shorthand	1 to 10
Law	1 to 10

Signatures.

EXPLANATION.—Marks will be entered upon the certificate in accordance with the degree of proficiency shown—thus for a person receiving full marks in any subject 10 would be entered against such subject, and so on down to 1 for incompetency.

840. Whenever vacancies occur in the Civil Service or in the schools the Premier shall take such examination certificates into account in filling such vacancies selecting persons of the highest qualifications according to such certificates.

Vacancies in the public service.

841. The Inspector of Schools shall hold annual examinations for the purpose of passing those who have arrived at the age for paying taxes and shall report to the Assistant Minister of Education the number of those who have passed the standard and the total number of children in each school and the schoolmasters shall receive salary in proportion to the number of those who have passed the standard considered with the total number of children attending the respective schools.

Tax inspection of schools.

ILLUSTRATION.—There are 15 children in A's school of whom 14 passed the standard: while there are 50 children in B's school of whom only 30 passed the standard. A should receive a larger salary in proportion than B, since the number of children who passed the standard was greater in proportion to the total number than in B's school.

Division of salaries.

842. The Minister of Education shall apportion the schoolmasters' vote in the annual estimates in accordance with the provisions of the last preceding Section.

SCHOOL CHILDREN.

Age for attending school.

843. All native children from the age of five years to the age of sixteen years shall attend school upon every school day unless prevented by sickness and if any child is prevented by sickness from attending the guardian of such child shall at once inform the Schoolmaster. It shall be lawful for any Inspector of Schools to authorise children who have reached the age of sixteen years and are proficient in reading writing and simple arithmetic to cease from attending school. It shall be unlawful for any child who is not proficient in reading writing or simple arithmetic to leave school although he may have passed the age of sixteen years and although he may be paying taxes.

Penalty for non-attendance.

844. Any child who shall cease attending school shall on conviction be liable to a fine of five dollars ($5) or if above the age of twelve years be imprisoned with hard labour for fourteen days in default of payment.

(Police Court. Inspector of Schools to prosecute.)

Penalty to guardian.

845. Should any child neglect to attend school without excuse the guardian of such child may be prosecuted and shall on conviction be liable to a fine of one dollar ($1) or be imprisoned with hard labour for four days in default of payment.

(Police Court. Schoolmaster to prosecute.)

Penalty for not attending examination.

846. Any child who shall neglect to attend the annual examination without excuse shall on conviction be liable to a fine of two dollars ($2) or if above the age of twelve years be imprisoned with hard labour for seven days in default of payment and if below the age of twelve years such fine shall be paid by his guardian.

(Police Court. Schoolmaster to prosecute.)

School furniture.

847. The Minister of Education shall appoint the various school necessaries to be purchased by each child and any child neglecting to obtain any article so appointed the guardian of such child may be prosecuted and shall on conviction be liable to a fine of one dollar ($1) or be imprisoned with hard labour for four days in default of payment.

(Police Court. Schoolmaster to prosecute.)

Children wandering at night.

848. Every Schoolmaster shall beat the *Lali* (drum) at eight o'clock every evening and every child shall thereupon return to his home and it shall be lawful for the Schoolmaster to inflict punishment upon any child found by him or by the village constable to be at large after the beating of such *Lali*. And it shall be lawful to report to the police any child who has been three times punished for this offence and the police may prosecute the guardian of such child who on conviction shall be liable to a fine of one dollar or be imprisoned with hard labour for four days in default of payment.

Mode of punishment.

848. It shall not be lawful for any Schoolmaster to inflict upon any child a punishment entailing manual labour but only school tasks.

Chapter XXXIII.

POLICE.

850. The Minister of Police shall have control of all the police and it shall be lawful for him with the consent of the Cabinet to make regulations for the governance of police and such regulations after publication in the Gazette shall have the force of law.

Police regulations.

851. Any Officer of Police who shall be guilty of any grave offence or improper conduct or of drunkenness may be tried by the Premier and Minister of Police and on conviction shall be liable to a reduction of pay or to imprisonment for not exceeding fourteen days or to instant dismissal as may be decided by the Premier and Minister of Police.

Penalty for grave offences.

852. Any Officer of Police who shall give away or sell any Government property under his care or any part of his uniform or accoutrements or rations shall on conviction be imprisoned with hard labour for any term not exceeding six months and shall be dismissed from the force.

Selling rations etc.

(Police Court. Minister of Police to prosecute.)

853. Whoever not being a member of the police force shall wear police uniform or impersonate an Officer of Police shall on conviction be liable to a fine of not exceeding fifty dollars ($50) or be imprisoned for any term not exceeding three months in default of payment.

Impersonating the police.

(Police Court. Minister of Police to prosecute.)

854. Any Officer of Police who shall connive at the commission of any offence or neglect to prosecute or arrest any person whom it is his duty to prosecute or arrest or shall allow any person in his custody to escape unless by the order of his superior officer shall on conviction be imprisoned with hard labour for any term not exceeding twelve months.

Compounding offence.

(Police Court. Minister of Police to prosecute.)

855. Every Officer of Police shall take the following oath in the presence of a Police Magistrate :—

Police oath.

I swear to faithfully discharge my duty as an Officer of Police without fear or favour to the best of my ability so help me God.

Chapter XXXIV.

GAOLERS AND PRISONS.

Gaol regulations.

856. The Minister of Police shall have the control of all the gaolers and prisons in the Kingdom and it shall be lawful for him with the consent of the Cabinet to make regulations for the governance of the prisons providing penalties for offences and such regulations when published in the Gazette shall have the force of law.

Grave offences.

857. Any Gaoler who shall be guilty of any grave offence or improper conduct or of drunkenness may be tried by the Premier and Minister of Police and on conviction he shall be liable to a reduction of pay or be imprisoned for any term not exceeding seven days or to instant dismissal as may be decided by the Premier and Minister of Police.

Prisoner escaping.

858. Any Gaoler who by neglect or intention shall permit any prisoner to escape shall on conviction be imprisoned with hard labour for any term not exceeding two years.

(Police Court. Minister of Police to prosecute.)

Prisoner escaping.

859. Any prisoner undergoing simple imprisonment or penal servitude who shall escape or attempt to escape from any building in which he has been ordered to remain or from the custody of any gaoler shall on conviction be imprisoned with hard labour for any term not exceeding five years and such term shall commence at the termination of the sentence which he was undergoing at the time of his offence.

(Supreme Court with Jury. Minister of Police to prosecute.)

Absence from roll call.

860. Any prisoner undergoing simple imprisonment or penal servitude who shall be absent without lawful excuse from work or roll call or from any building in which he should remain at night shall on conviction be liable to imprisonment with hard labour for any term not exceeding six months and such term shall commence at the termination of the sentence he was undergoing at the time of his offence.

(Police Court. Chief Gaoler to prosecute.)

Gaoler's oath.

861. Every Gaoler shall take the following oath in the presence of a Police Magistrate :—

I swear that I will faithfully discharge my duty as a Gaoler without fear or favour to the best of my ability so help me God.

Chapter XXXV.

GUARDS.

862. The King shall be Commander-in-Chief of the Guards and shall appoint a Commandant and Officers. Appointment of officers.

863. The Legislative Assembly and the Privy Council shall have power to appoint the number of the Guards and the pay they shall receive. Number.

864. The Commandant of the Guards shall with the King's consent have power to enroll officers and privates. Enrolment.

865. It shall be unlawful for any officer or private to leave the force without first obtaining the written permit of the Commandant and any officer or private who has served for two years may give notice to the Commandant of his desire to leave the force and at the expiration of three months from the date of such notice it shall be lawful for him to leave the force and any private who shall leave the force without first obtaining such permit may be arrested and tried by a Military Court and on conviction shall be liable to a fine of not exceeding fifty dollars ($50) or be imprisoned for any term not exceeding three months in default of payment. Penalty for desertion.

(Military Court. An Officer to prosecute.)

866. Any soldier who shall obtain his discharge shall deliver to the Commandant his arms and accoutrements and whoever shall infringe the provisions of this Section shall on conviction be liable to a fine of twenty dollars ($20) or be imprisoned for any term not exceeding two months in default of payment. Discharged soldier to deliver up arms.

(Military Court. An Officer to prosecute.)

867. It shall be lawful to hold a Military Court for the trial of all offences against military regulations and discipline and the Commandant shall appoint the officers and non-commissioned officers numbering not less than three and not exceeding five who shall sit in such Court. Military Court.

868. The Commandant shall preside over the Military Court and in the event of the Commandant being prosecutor in any case the King shall appoint some person to preside during the trial of such case. Commandant to preside.

869. It shall be lawful for such Court to try any officer or non-commissioned officer or soldier for disobedience of orders or infringement of Military Regulations and for offences for which no penalty is provided in this Chapter it shall be lawful to inflict any fine not exceeding fifty dollars ($50) or imprisonment for any term not exceeding three months: Provided that the Commandant shall report such punishment to the King without delay. General penalty.

870. Should any soldier lose or destroy or be unable to account for any Government property entrusted to him it shall be lawful for the Military Court to order his pay to be stopped until the value of such Lost property to be paid for.

property has been made good and the Court may further order that he be dismissed from the force.

Disobedience.

871. Any officer or non-commissioned officer or soldier who shall disobey any order of his superior shall on conviction if an officer be dismissed from the force and if a non-commissioned officer or soldier be imprisoned for any term not exceeding one month.

(Military Court.)

Neglect of Duty.

872. Any non-commissioned officer or soldier who shall leave or neglect his duty without the permission of his superior shall on conviction be liable to a reduction of pay or to imprisonment for any term not exceeding fourteen days or to both such punishments as may be decided by the Court.

(Military Court.)

Various offences.

873. Any officer or non-commissioned officer or soldier who shall commit any of the following offences shall on conviction if an officer be dismissed from the force and if a non-commissioned officer or soldier be imprisoned with hard labour for any term not exceeding two months or be dismissed from the force :—

1. Escaping from any building in which he is under arrest.
2. Absenting himself from parade without lawful excuse.
3. Leaving parade without permission.
4. Malingering or doing any act with the fraudulent intention of incapacitating himself.

Powers of Commandant.

874. It shall be lawful for the Commandant to try any person accused of any of the following offences and to inflict a punishment of imprisonment for any term not exceeding fourteen days : Provided that any person so punished may appeal to the Military Court :—

1. Disobedience of the order of his superior.
2. Deserting his post without permission.
3. Sleeping on duty.

Summons to be first served on Commandant.

875. Should any Police Magistrate issue a summons to any soldier the police constable serving such summons shall serve it upon the Commandant who shall be responsible for serving it upon such soldier.

Petty breaches of discipline.

876. It shall be lawful for the Commandant or any officer to inflict upon any soldier guilty of a petty breach of discipline punishment drill or imprisonment for any term not exceeding eighteen hours.

Forfeited pay.

877. Any officer or soldier undergoing imprisonment shall forfeit the pay due to him while undergoing such imprisonment.

Fines may be deducted from pay.

878. Should any officer or soldier be fined it shall be lawful for the Commandant to stop the pay of such officer or soldier until the amount of such fine has been deducted.

Approved by the King this sixth day of August one thousand eight hundred and ninety-one.

JIOAJI TUBOU.

Chapter XXXVI.

THE PLANT CALLED *TALATALA HINA*,

879. The plant called *Talatala Hina* shall be eradicated from Tongatabu and such destruction shall be carried out before the end of the month of March one thousand eight hundred and ninety-two and any person who shall neglect to assist in such destruction after having been called upon shall be liable to the penalty provided in Section 881.

Destruction of the plant called *Talatala Hina.*

880. After the destruction of the aforesaid plant which was ordained by the Legislative Assembly in the Session of one thousand eight hundred aud ninety-one every person occupying an allotment of land shall keep his allotment clear of the aforesaid plant.

Land to be kept clear.

881. Should the plant known as *Talatala Hina* be found on any land after the date decreed by the Legislative Assembly for the eradication of such plant the owner or occupier of such land shall on conviction be liable to a fine of not exceeding five dollars ($5) or be imprisoned with hard labour for any term not exceeding fourteen days in default of payment or such fine shall be levied by distress as the Court may direct.

Penalty for harbouring plant.

882. Every Mayor shall inspect the tax allotments or planting lands appertaining to his village once in every month for the purpose of carrying out the provisions of this Chapter.

Inspection by Mayor.

883. Any Mayor who shall neglect to make the inspection provided in the last preceding Section shall on conviction be liable to a fine of five dollars ($5) to be levied by distress.

Penalty.

884. Any person who shall plant on his own or another's land or carry from one place to another whether maliciously or otherwise any portion of the plant called *Talatala Hina* shall on conviction be liable to a fine of not exceeding five hundred dollars ($500) or be imprisoned with hard labour for any term not exceeding five years in default of payment or be imprisoned for any term not exceeding six months.

Penalty for planting.

(Supreme Court with Jury. Minister of Police to prosecute.)

Approved by the King this fifteenth day of August one thousand eight hundred and ninety-one.

JIOAJI TUBOU.

APPENDIX.

THE CONSTITUTION.

WHICH was granted by His Majesty on the fourth day of November One thousand eight hundred and seventy-five and amended by the Legislative Assembly on the thirty-first day of July One thousand eight hundred and eighty and ratified by the said Legislative Assembly on the fifteenth day of September One thousand eight hundred and eighty-two and sanctioned by His Majesty on the sixteenth day of September One thousand eight hundred and eighty-two.

And again amended by the Legislative Assembly on the nineteenth day of October One thousand eight hundred and eighty-two and unanimously confirmed by the Cabinet and the Privy Council and sanctioned by His Majesty on the twenty-third day of October One thousand eight hundred and eighty-two.

And again amended by the Legislative Assembly on the nineteenth day of November in the year of Our Lord One thousand eight hundred and eighty-five and unanimously confirmed by the Cabinet and the Privy Council and sanctioned by His Majesty on the twentieth day of November in the year of Our Lord One thousand eight hundred and eighty-five.

And again amended by the Legislative Assembly on the fourteenth day of December in the year of Our Lord One thousand eight hundred and eighty-eight and unanimously confirmed by the Cabinet and the Privy Council and sanctioned by His Majesty on the twenty-first day of December in the year of Our Lord One thousand eight hundred and eighty-eight.

I. DECLARATION OF RIGHTS.

Declaration of freedom.

1. Since it appears to be the will of God that man should be free as He has made all men of one blood therefore shall the people of Tonga and all who sojourn or may sojourn in this Kingdom be free for ever. And all men may use their lives and persons and time to acquire and possess property and to dispose of their labour and the fruit of their hands and to use their own property as they will.

Slavery prohibited.

2. No person shall serve another against his will except he be undergoing punishment by law and any slave who may escape from a foreign country to Tonga (unless he be escaping from justice being guilty of homicide or larceny or any great crime or involved in debt) shall be free from the moment he sets foot on Tongan soil for no person shall be in servitude under the protection of the flag of Tonga.

Conditions under which foreign labourers may be introduced.

3. Whoever may wish to bring persons from other islands to work for him may make an agreement with them for the number of years they will work for him and a copy of the written agreement he makes with them shall be deposited in the Public Offices stating the amount of payment they shall receive the period they shall work and a promise to take them back to their own land. And the Government shall cause such contract to be carried out both on behalf of those who engage and those who are engaged. And such persons being so introduced shall be subject to the laws of the land and shall pay the

same Customs duties as all the people in the Kingdom and taxes as shall be ordained by the King and his Cabinet. But it shall not be lawful for any one to make an agreement with any Chinese to come and work for him: But it is not intended by this provision to prevent Chinese from coming to Tonga but to prevent them from coming as labourers. But any Chinaman wishing to reside in Tonga must produce a doctor's certificate declaring that he is free from disease and it shall thereafter be lawful for him to reside in this Kingdom.

Same law for all classes.

4. There shall be but one law in Tonga for Chiefs and commoners for Europeans and Tongans. No law shall be enacted for one class and not for another class but the law shall be the same for all the people of this land.

Freedom of worship.

5. All men are free to practise their religion and to worship God as they may deem fit in accordance with the dictates of their own consciences and to assemble for religious service in such places as they may appoint. But it shall not be lawful to use this freedom to commit evil and licentious acts or under the name of worship to do what is contrary to the law and peace of the land.

Sabbath day sacred.

6. The Sabbath Day shall be sacred in Tonga for ever and it shall not be lawful to do work or play games or trade on the Sabbath. And any agreement made or document witnessed on this day shall be counted void and shall not be recognized by the Government.

Freedom of the press.

7. It shall be lawful for all people to speak write and print their opinions and no law shall ever be enacted to restrict this liberty. There shall be freedom of speech and of the press for ever: but nothing in this section shall be held to outweigh the law of slander or the laws for the protection of the King and the Royal Family.

Freedom of petition.

8. All people shall be free to send letters or petitions to the King or Legislative Assembly and to meet and consult concerning matters about which they think it right to petition the King or Legislative Assembly to pass or repeal enactments provided that they meet peaceably without arms and without disorder.

Habeas Corpus.

9. The law of the writ of Habeas Corpus shall apply to all people and it shall never be suspended excepting in the case of war or rebellion in the land when it shall be lawful for the King to suspend it.

Accused must be tried.

10. No one shall be imprisoned or punished because of any offence he may have committed until he has been sentenced according to law before a Court having jurisdiction in the case.

Procedure in criminal charges.

11. No one shall be tried or summoned to appear before any Court or punished for failing to appear unless he have first received a written indictment (except in cases of impeachment or for small offences within the jurisdiction of the Police Magistrate or for contempt of Court while the Court is sitting). Such written indictment shall clearly state the offence charged against him and the grounds for the charge. And at his trial the witnesses against him shall be brought face to face with him and he shall hear their evidence and shall be allowed to question them and to bring forward any witness of his own and to make his own statement regarding the charge preferred against him. But whoever shall be indicted for any felony such as treason sedition homicide larceny bribery perjury forgery embezzlement or other felony shall be tried by jury and this law shall never be repealed. And all claims for large amounts shall be decided by a jury and the

Legislative Assembly shall determine what shall be the amount of claim that may be decided without a jury.

12. No one shall be tried again for any offence for which he has already been tried whether he was acquitted or convicted except in cases where the accused shall confess after having been acquitted by the Court and when there is sufficient evidence to prove the truth of his confession.

Accused cannot be tried twice.

13. No one shall be tried on any charge but that which appears in the writ or warrant and for which he was brought to trial.

Charge cannot be altered.

14. No one shall be intimidated into giving evidence against himself nor shall the life or property or liberty of any one be taken away except according to law.

Trial to be fair.

15. It shall not be lawful for any Magistrate or Justice to adjudicate or for any juryman to sit in any case in which one of his relations is concerned either as a plaintiff defendant or witness: nor shall any Magistrate or Justice sit in any case which concerns himself: nor shall any Magistrate or Justice or juryman on any pretence receive any present or money or anything else from any one who is about to be tried nor from any of the defendant's friends but all Magistrates and jurymen shall be entirely free and shall in no case whatever be interested or biased in the discharge of their duties.

Court to be unbiased.

16. It shall not be lawful for any one to enter forcibly the house or premises of another or to search for anything or to take anything the property of another excepting by the command of the Justices according to law: and should any person lose any property and know it to be concealed in any place whether house or premises it shall be lawful for him to make affidavit before a Magistrate that he believes it to be concealed in that place and he shall describe particularly the property so concealed and the place in which he believes it to be concealed and the Magistrate shall issue a search-warrant to the Police to search for the property according to the affidavit so made.

Premises can not be searched without warrant.

17. The King shall govern on behalf of all his people and not so as to enrich or benefit any one man or any one family or any one class but without partiality for the good of all the people of his Kingdom.

Government to be impartial.

18. All the people have the right to expect that the Government will protect their life liberty and property and therefore it is right for all the people to support and contribute to the Government according to law. And if at any time there should be a war in the land and the Government should take the property of any one the Government shall pay the fair value of such property to the owner. And if the Legislative Assembly shall resolve to take from any person or persons their premises or a part of their premises or their houses for the purpose of making Government roads or other work of benefit to the Government the Government shall pay the fair value as assessed by four arbitrators two of whom shall be chosen by the Government and two by the owner or owners of the premises or house or property and these four arbitrators shall choose another to be their chairman and whatever sum they may agree upon shall be held to be the fair value.

Taxation.

Compensation to be paid for property taken.

19. It shall not be lawful to increase or decrease the taxes or customs duties without the consent of the Legislative Assembly nor shall any money be paid out of the Treasury or debts contracted by the Government but by vote of the Legislative Assembly excepting in

Expenditure to be voted.



cases of war or rebellion or dangerous epidemic or a similar emergency and in such case it shall be done with the consent of the Cabinet and the King shall at once convoke the Legislative Assembly and the Treasurer shall state the grounds for the expenditure and the amount.

Retrospective laws.

20. It shall not be lawful to enact any retrospective laws.

Army subject to civil law.

21. Every soldier shall be subject to the laws of the land whether he belong to the Guards the Artillery or to the Militia in accordance with the twenty-third clause and any soldier who breaks the law of the land shall be tried in the Courts as any other person. And it shall not be lawful for any officer to quarter any soldier upon the premises of any one except in time of war and then only as may be resolved by the Legislative Assembly.

Qualifications for electors.

22. Whoever has arrived at the age of twenty-one years and pays taxes and is a native of the land or one who has taken the Oath of Allegiance or received Letters of Denization and can read and write and from the time the Constitution of One thousand eight hundred and seventy-five (1875) became law has not been guilty of any felony such as treason sedition murder theft bribery perjury forgery embezzlement or a like felony (which deprive a man of his liberty and prevent him from holding office under the Government according to the twenty-fifth clause of this Constitution) may vote for Representatives to the Legislative Assembly who shall be elected by ballot. And on the day appointed for the election of Representatives to the Legislative Assembly he shall be exempt from summons for debt but this provision shall not exempt him from the execution of a warrant upon a charge of felony in accordance with the twenty-fifth clause.

Militia.

23. The King's guards shall have the right to vote for Representatives to the Legislative Assembly although they are exempt from taxes in accordance with the provisions of this Constitution Act. It shall be lawful for the King to command any taxpayer to join the militia for the purpose of instruction or for parade on public occasions should he think fit and also in time of war to call out all those capable of bearing arms and to make orders and regulations for their control and provisioning.

Qualifications for representatives.

24. Whoever has arrived at the necessary age and is able to write and read and since the granting of the Constitution of One thousand eight hundred and seventy-five (1875) has not been guilty of any felony such as treason sedition homicide larceny bribery perjury forgery embezzlement or any similar felony in accordance with the twenty-fifth clause and has paid his taxes and is not in debt for a larger amount than is allowed by law it shall be lawful for him to enter the Legislative Assembly if chosen by any electorate as a member according to law. But any one holding a position of emolument under the Government shall not be eligible for a seat in the Legislative Assembly excepting His Majesty's Ministers the Chief Justice the Governors and Mayors of towns.

Convict may not vote unless pardoned.

25. It shall not be lawful for any one who has committed any felony such as treason sedition homicide larceny bribery perjury forgery embezzlement or a like crime since the granting of the Constitution to hold any office under the Government of Tonga whether of emolument or honour or to vote for Representatives to the Legislative Assembly if he have not received pardon from the King with a declaration in his pardon that he can again hold office under the Government as a free man and

that he may vote for Representatives to the Legislative Assembly in accordance with the twenty-second clause.

Officers not to engage in trade.

26. It shall not be lawful for any one holding any office under the Government whether of emolument or otherwise to hold any appointment or receive any emolument from another Government without first obtaining permission from the King. And it shall not be lawful for any one holding an office of emolument under the Government to engage in trade or work for any one else.

Every native to pay taxes.

27. Every male native who has arrived at the age of sixteen years shall pay taxes whether he hold tax lands or not. And every European or stranger who shall come to reside in this land whether as a trader or carpenter or artificer whether he has premises or leased lands or not shall pay the same taxes as all other people notwithstanding that he may hold trading licenses or may pay rent for leased lands.

Exemptions from taxes.

28. Whoever shall be really poor whether owing to sickness or old age if he cannot pay taxes whether he be Tongan or Foreigner shall appear before one of the Justices on a day appointed by the Government and it shall be lawful for such Justice to give him an exemption from paying taxes but it shall not be lawful to exempt any person who receives rents from leased land or any person who receives any emolument or pension from the Government.

Age of maturity.

29. Although it is herein provided that all males who have arrived at the age of sixteen years shall pay taxes yet it shall not be lawful for them to succeed to any inheritance or any title until they have arrived at the age of twenty-one years. But the Royal Family shall be considered to have arrived at the age of maturity at eighteen years.

Qualifications for jurors.

30. Every native male person who has arrived at the age of twenty-one years and pays taxes and can read and write and has not been guilty of any felony as set forth in the twenty-fifth clause of this Constitution shall be liable to serve on juries and the names of all those who are liable to serve shall be published once every year and any one who neglects to serve shall be punished as shall be enacted by the Legislative Assembly. But members of the Legislature ministers of religion assistant ministers schoolmasters collegians public servants guardsmen artillerymen and all officials of the Government shall be exempt from serving on juries.

Trial by jury.

31. Any European or subject of any of the great nations who shall be guilty of any felony as enumerated in the twenty-fifth clause of this Constitution or who shall be sued for a large amount (and the Legislative Assembly shall determine the amount of claim which shall be tried by jury) shall be tried by a jury of natives whose names stand on the jury list of the place where the Court is held provided always that this shall be in accordance with any treaty made or which may be made between his Majesty King George or his heirs and successors and the Sovereign of any of the great nations.

Trial of foreigners.

32. The subjects of any nation which has recognised Tonga as a Kingdom after residing in Tonga for the space of two years may take the Oath of Allegiance. Such persons shall have the same privileges as the native-born subjects of Tonga and in the trial of any Foreigner if it shall appear that there is a difference of meaning between the law published in English from that published in Tongan the case shall be tried according to the English version of the law which shall be held to



British law to be in force in certain cases.

be the meaning of the law. And should any Foreigner be charged with the commission of any offence for which no Tongan law has been provided he shall be tried according to the British law which shall be held to be the law of Tonga in such cases until a law has been passed by the King and Legislative Assembly to meet the offence.

II.—FORM OF GOVERNMENT.

The Government.

33. The Government of this Kingdom is divided into three Bodies:—

1st. The King Privy Council and Cabinet (the Ministry.

2nd. The Legislative Assembly.

3rd. The Judiciary.

Form of Government.

34. The form of Government for this Kingdom is a Constitutional Government under His Majesty King George Tubou his heirs and successors.

Succession to the Throne.

35. The Crown and Throne of this Kingdom is occupied by His Majesty King George Tubou and it is hereby confirmed that it shall be occupied by him and by David Uga who was begotten by him and by Wellington Gu who was begotten by him and by them who shall be begotten by him in marriage and if there be no heirs by marriage of Wellington Gu it shall descend according to the law of succession. This is the law of succession:—It shall be lawful only for those born in marriage to succeed. The succession shall be to the eldest male child and the heirs of his body but if he should have no children to the second male child and the heirs of his body and so on until all the male line shall be ended. Should there be no male child the eldest female child shall succeed and the heirs of her body and if she should have no children it shall descend to the second female child and the heirs of her body until the female line is ended. And if there shall be none of this line of David Uga lawful descendants by marriage to succeed to the Crown of Tonga it shall descend to William Tugi and his lawful heirs begotten by him in marriage and to their heirs begotten by them. And if there should be no lawful heir the King shall appoint his heir if the House of Nobles consent to it [the Representatives of the People having no voice in the matter] and he shall be publicly declared heir to the Crown during the King's life. Should there be no heir to the Crown or successor who has been so publicly proclaimed the Premier or in his absence the Cabinet Ministers shall convoke the Nobles of the Legislative Assembly [the Representatives of the People having no voice in the matter] and when they meet the House of Nobles shall choose by ballot some one of the Chiefs whom they wish to succeed as King. And he shall succeed as the first of a new dynasty and he and the heirs of his body born in marriage shall possess the Crown according to law. And in the event of there being none to succeed according to this law the Premier or in his absence the Cabinet Ministers shall again convoke the Nobles of the Legislative Assembly in accordance with this law and they shall choose one to succeed to the Throne as the first of a new dynasty and so on according to this law for ever.

Heir apparent may not choose consort.

36. It shall not be lawful for any member of the Royal Family who is likely to succeed to the throne to marry any person without the consent of the King. And if any person should thus marry the marriage shall not be considered legal and it shall be lawful for the

King to cancel the right of such person and his heirs to succeed to the Crown of Tonga. And the next person in succession to him who so marries shall be declared the heir and the offender shall be regarded as dead.

37. After this Constitution shall become law His Majesty shall take the following oath on a day appointed and this oath shall also be taken by those who shall succeed him on the throne—"I solemnly swear before Almighty God to keep in its integrity the Constitution of Tonga and to govern in conformity with the laws thereof." Coronation oath.

38. No person shall succeed to the Crown of Tonga who has been found guilty of a felony or who is insane or imbecile. Idiot cannot succeed.

39. The King is the Commander-in-Chief of the forces on land and sea. He shall appoint all officers and make such regulations for the training and control of the forces as he may think best for the welfare of the country but it shall not be lawful for the King to make war without the consent of the Legislative Assembly. King commands forces.

40. It shall be lawful for the King with the consent of the Privy Council to pardon any person who has been convicted of a breach of law provided that he shall not pardon any person convicted of maladministration in accordance with the fifty-fifth clause. It shall not be lawful to pardon any person convicted of this offence. King may pardon convicts.

41. The King with the consent of the Privy Council shall convoke the Legislative Assembly which shall always assemble in Nukualofa the capital of the Kingdom. It shall not be lawful to meet in any other place except in case of war. And if the King shall be displeased with the Legislative Assembly it shall be lawful for him to dissolve the Assembly and to command that new Representatives be elected to enter the Legislative Assembly. But it shall not be lawful for him to dismiss any one of the Nobles of the Legislative Assembly except in cases of treason or sedition and then only in accordance with the forty-eighth clause. But it shall not be lawful for the Kingdom to remain without a meeting of the Legislative Assembly for a longer period than three years and in the event of any important occurrence the Legislative Assembly shall be convened without delay to deliberate upon it. King's relations with Parliament.

42. It shall be lawful for the King to make treaties with Foreign States provided that such treaties shall be in accordance with the laws of the Kingdom. It shall not be lawful for the King to alter the Customs duties without the consent of the Legislative Assembly. The King may appoint his representatives to other nations according to the custom of nations. Treaties.

43. The King shall receive Foreign Ministers and may address the Legislative Assembly in writing regarding the affairs of the Kingdom and matters which he may wish to bring before the Assembly for deliberation. Foreign Ministers.

44. The person of the King is sacred. He governs the country but his Ministers are responsible. All Acts that have passed the Legislative Assembly must bear the King's signature before they become law. King's signature to laws.

45. Shonld the King die before his heir is eighteen years of age a Prince Regent shall be appointed in accordance with the forty-sixth clause. Prince Regent.

Prince Regent —how appointed.

46. Should the King wish to travel abroad it shall be lawful for him to appoint a Prince Regent who shall administer the affairs of the Kingdom during his absence. And if the King should die whilst his heir is not yet arrived at the age of eighteen years and he has not declared in his will his wishes regarding a Prince Regent during his heir's minority the Premier or the Cabinet shall at once convoke the Legislative Assembly and they shall choose by ballot a Prince Regent who shall administer the affairs of the Kingdom in the name of the King until the heir shall have attained his majority [but the Representatives of the people shall have no voice in such election].

King's powers.

47. The King is the Sovereign of all the Chiefs and all the people. He governs the Kingdom.

King may confer titles.

48. It is the King's prerogative to give titles of honour and to confer honourable distinctions but it shall not be lawful for him to deprive any one who has an hereditary title of his title such as Chiefs of hereditary lands and Nobles of the Legislative Assembly who possess hereditary lands and a seat in the Legislative Assembly according to the forty-first clause of this Constitution except in cases of treason. And if any one shall be tried and found guilty of treason the King shall appoint a member of that family to succeed to the name and inheritance of the guilty person.

Coinage.

49. It is the prerogative of the King with the advice of his Cabinet to decree the coinage which shall be legal tender in this Kingdom and to make regulations for the coining of money.

Martial law.

50. In the event of civil war or war with a Foreign State it shall be lawful for the King to proclaim martial law over any part or over the whole of the country.

National flag.

51. The Flag of Tonga (the flag of King George) shall never be altered but shall always be the flag of this Kingdom and the present Royal Ensign shall always be the ensign of the Royal Family of Tonga.

Royal property.

52. The lands of the King and the property of the King are his to dispose of as he pleases. The Government shall not touch them nor shall they be liable for any Government debt. But the houses built for him by the Government and any inheritance which may be given to him as King shall descend to his successors as the property and inheritance of the Royal line.

King exempt from action.

53. It shall not be lawful to sue the King in any Court for a debt without the consent of the Cabinet.

Privy Council.

Constitution and powers of Privy Council.

54. The King shall appoint a Privy Council to assist him in the discharge of his important functions. The Privy Council shall be composed of the Cabinet in accordance with the fifty-fifth clause and the Governors in accordance with the fifty-eighth clause and the Chief Justice and any others whom the King shall see fit to call to his Council. And if any case shall have been heard in the Supreme Court it shall be lawful for either party thereto to appeal to the Privy Council which shall re-hear the case and the judgment of the Privy Council shall in all cases be final provided that it shall not be lawful for the Privy Council to re-try any criminal case but only to advise the King on the remission or mitigation of sentences. No Ordinance which may be passed by the King and Privy Council shall have any

effect until the signature of the Minister to whose department such Ordinance relates is affixed thereto and if such Ordinance shall be illegal such Minister alone shall be responsible and when the Legislative Assembly shall meet it may confirm such Ordinances and make them law or rescind them.

CABINET.

55. The Cabinet or Ministers of the King shall consist of the Premier who shall be Minister for Foreign Affairs the Treasurer the Minister of Lands the Minister of Police and any other Ministers whom his Majesty may be pleased to appoint. It is the King's prerogative to appoint the Ministers and they shall hold office during the King's pleasure or for such period as may be specified in their commissions and any one Minister may hold two or more offices. It shall be lawful to impeach the Ministers before the Legislative Assembly if their administration is not in accordance with law. The Ministers shall be members of the Privy Council and of the Legislative Assembly as Nobles. Each Minister shall draw up a report once every year acquainting the King with the affairs of his department and such report shall be forwarded by the King to the Legislative Assembly at its next meeting and if the Legislative Assembly shall wish to know anything concerning the department of any Minister he shall answer all questions put to him by the Legislative Assembly and report everything in connection with his department.

Constitution and powers of Cabinet.

56. Each member of the Cabinet shall have an office in Nukualofa the capital of the Kingdom and he shall satisfy himself that all the subordinates in his department faithfully perform their duties. And the Government shall build or rent offices suitable for the work of each Minister.

Duties of Ministers.

57. When the Legislative Assembly shall meet the Treasurer shall present to the Legislative Assembly on behalf of the Cabinet an account of all moneys which have been received and expended during the current year or since the last meeting of the Assembly and the nature of the receipts and expenditure.

Treasurer to report to Parliament.

58. The King with the consent of the Cabinet shall appoint Governors to Haapai Vavau Niuafoou and Niuatobutabu. The Governors shall in virtue of their office hold seats in the Legislative Assembly and shall also be members of the Privy Council whilst they hold the office of Governor and they shall hold office only during the King's pleasure.

Governors—how

59. It shall not be lawful for a Governor to enact any law but he shall be responsible that the law is enforced in his district. If the administration of any Governor be contrary to law it shall be lawful to impeach him in the Legislative Assembly.

Powers of Governors.

THE LEGISLATIVE ASSEMBLY.

60. The King and Legislative Assembly shall have power to enact laws and the Nobles and Representatives of the People shall sit in one House. And when the Legislative Assembly shall agree upon any bill which has been read and voted for by the majority three times it shall be presented to the King for his sanction and upon receiving his sanction and signature it shall at once become law. Votes shall be given by raising the hand or by standing up in division or by saying "aye" or "no."

Powers of Assembly

Title.

61. The Legislative Assembly shall be called the Legislative Assembly of the Kingdom of Tonga.

Sessions.

62. The Legislative Assembly shall meet after every second year that is before the completion of the third year but if any grave emergency arise it shall be lawful to summon the Legislative Assembly to meet for deliberation without delay.

Members of Assembly.

63. The Legislative Assembly shall be composed of the Ministers in accordance with the fifty-fifth clause and the Nobles and Representatives of the People.

I. MINISTERS.—It shall be lawful for the King to choose his Ministers from the Nobles or from the Representatives of the People or from the people and in the last case they shall be members of the Legislative Assembly in accordance with the fifty-fifth clause.

II. NOBLES.—It is the prerogative of the King to determine how many nobles there shall be in the Kingdom and every Noble whom the King shall be pleased to appoint and his heirs male in accordance with clause one hundred and seventeen shall always have the right to sit and vote in the Legislative Assembly.

III. REPRESENTATIVES OF THE PEOPLE.—There shall be as many Representatives of the People as there are Nobles in the Legislative Assembly and the Legislative Assembly shall determine how they shall be apportioned among the various districts.

Oaths of members.

64. The following Oath shall be taken by the members of the Privy Council—"I solemnly swear before God that I will be truly loyal to His Majesty King George Tubou the rightful King of Tonga and that I will keep righteously and perfectly the Constitution of Tonga and assist to the end of my power and ability in all things in connection with the Privy Council." The following Oath shall be taken by the Ministers—"I solemnly swear before God that I will be truly loyal to His Majesty King George Tubou the rightful King of Tonga and that I will keep righteously and perfectly the Constitution of Tonga and discharge the duties of my department to the end of my ability for the benefit of the King and his Government." The following Oath shall be taken by the Nobles and Representatives of the People—"I solemnly swear before God that I will be truly loyal to His Majesty King George Tubou the rightful King of Tonga and that I will righteously and perfectly conform to and keep the Constitution of Tonga and zealously discharge my duties as a member of the Legislative Assembly." The members of the Privy Council shall sign their names to the Oath and read it in the presence of the King. The Ministers shall sign their names to the Oath and read it in the presence of the King. The Nobles and Representatives of the people shall sign their names to the Oath and read it in the presence of the Legislative Assembly.

Rules of Procedure.

65. The King shall appoint the Speaker of the Assembly from one of the Nobles of the Legislative Assembly but all other officers shall be appointed by the Legislative Assembly. The Legislative Assembly shall make all rules in connection with its meetings in accordance with the usage of other Legislatures.

66. No one shall succeed to the position of Noble until he has attained the age of twenty-one years and no one shall succeed to that position or enter the Legislative Assembly who is insane or imbecile or who has been guilty of felony as provided in the twenty-fifth clause.

Qualification of Noble.

67. The Representatives of the People shall be chosen by ballot. It shall not be lawful for any one to enter the Legislative Assembly who is insane or imbecile but those only who are free in law according to the twenty-fourth and twenty-fifth clauses. The mode of ballot shall be as follows :—The elector shall choose from the candidates those whom he wishes to enter the Legislative Assembly and write such candidates' names on the ballot paper and place it in the ballot box. The papers shall be collected by the Clerk who shall be appointed by the Premier for the purpose and he shall ascertain who is elected a member of the Legislative Assembly and shall declare on the day of election who has been elected and report the election at once to the Speaker of the Assembly. He shall also collect all the ballot papers and such ballot papers shall be preserved in the Government offices for the space of seven years.

Qualification of Representative.

Ballot.

68. It shall not be lawful for anyone who is insane or imbecile to vote in the election for Representatives of the People to the Legislative Assembly but those only who are free in law according to the twenty-second clause.

Qualification of elector.

69. Whoever shall use threats or offer bribes for the purpose of persuading any person to vote for him and he be elected as a member of the Legislative Assembly shall be unseated by the Legislative Assembly when they have satisfactory proof that the offence was committed.

Bribery.

70. It shall be lawful for only the Nobles of the Legislative Assembly to vote upon laws relating to the King Royal Family and Nobles of the Legislative Assembly and after any such law has been read and passed three times by a majority of the Nobles it shall be submitted to the King for his sanction or veto or otherwise.

Privilege of Upper House

71. Should the King withhold his sanction from any law passed by the Legislative Assembly and submitted to him for approval it shall be unlawful for the Legislative Assembly to again discuss such law until the following session.

King's veto precludes discussion.

72. It shall be lawful for the Legislative Assembly to pass judgment upon its members and although all the members may not be present it shall be lawful for the Legislative Assembly to discuss and pass laws should one-third of the members or twenty members be present: but if there are less than one-third present they shall adjourn to another day until one-third of the House or twenty members shall be present. And at the next meeting if there still be less than one-third of the House or twenty members present it shall be lawful to command the presence of all the Nobles and all the Representatives of the People and if they fail to attend it shall be lawful to inflict a punishment for such disobedience.

Quorum.

73. If any one shall speak or act disrespectfully in the presence of the Legislative Assembly it shall be lawful to imprison him for thirty days and whoever shall publish any libel on the Legislative Assembly or threaten any member or his property or rescue any person whose arrest has been ordered by the Legislative Assembly may be imprisoned for not exceeding thirty days.

Contempt of Assembly punishable.

Noble may be dismissed for misconduct.

74. Should any Noble be guilty of conduct unbecoming his position whether during the session of the Legislative Assembly or not he may be tried and deprived of his office by his Peers but the Representatives of the People shall not take part in his trial and if deposed the King shall appoint some person of such Noble's family to succeed to his seat in the Legislative Assembly provided that his title and hereditary estate shall not be confiscated except for Treason or Sedition.

Journal.

75. A Journal of the proceedings of the Legislative Assembly shall be kept and the votes for and against any motion shall at the desire of one-fifth of the members present be recorded in the Journal of the Assembly.

Immunity from arrest.

76. The Nobles and Representatives of the People shall be free from arrest whilst the Assembly is sitting excepting for felonies enumerated in the twenty-fifth clause. And no member of the Legislative Assembly shall be liable for anything he may have said in the Legislative Assembly.

Impeachment.

77. It shall be lawful for the Nobles and the Representatives of the People to impeach any of the Ministers or Governors or Justices for misconduct and the Legislative Assembly shall have power upon conviction to deprive the accused of his office provided that the Courts only may inflict punishment according to law should he be convicted before them.

Resignation of seat.

78. Any Representative who may wish to resign his seat may tender his resignation in writing to the Speaker and his connection with the Legislative Assembly shall cease when he tenders his resignation.

By-alections.

79. Upon the death or resignation of any of the Representatives of the People the Speaker shall immediately command that the electorate which he represented shall elect a Representative in his place. But the Legislative Assembly shall not adjourn although their number may not be complete.

General elections.

80. New elections shall be held for all the Representatives of the people every five years: but it shall be lawful for the King at his pleasure to dissolve the Legislative Assembly although five years since the last election may not have expired and to command the electorates to re-elect Representatives to the Legislative ssembly Aaccording to law.

Assembly to assess taxation.

81. The Legislative Assembly shall assess the amount of taxes to be paid by the people and the Customs duties and fees for trading licenses and shall pass the estimates of expenditure for the Public Service in accordance with the nineteenth clause. And upon the report of the Minister of Finance upon the revenue and expenditure received during the years succeeding the last meeting of the Assembly the Legislative Assembly shall determine the estimates for the expenditure of the Government until the next meeting of the Legislative Assembly. And the Ministers shall be guided by the estimates of Public expenditure so authorised by the Legislative Assembly.

Amendments to Constitution.

82. It shall be lawful for the Legislative Assembly to discuss amendments to the Constitution provided that such amendments shall not affect the law of liberty the succession to the Throne and the titles and hereditary estates of the Nobles. And if the Legislative Assembly wish to amend any clause of the Constitution such amend-

ment shall after it has passed the Legislative Assembly three times be submitted to the King and if the Privy Council and the Cabinet are unanimously in favour of the amendment it shall be lawful for the King to assent and when signed by the King it shall become law.

83. The formula for enacting laws shall be "Be it enacted by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:" — Enacting formula.

84. To avoid confusion in the making of laws every law shall embrace but one subject which shall be expressed by its title. — Lows to cover but one subject.

85. The present laws shall be in force until repealed by the Legislative Assembly excepting such laws as are at variance with this Constitution. And it shall be lawful for the Chief Justice to suspend the operation of any law which is at variance with the Constitution until the next meeting of the Legislative Assembly. — Chief Justice may suspend laws.

THE COURTS.

88. The Judicial power of the Kingdom shall be vested in the Supreme Court District Courts and Police Courts. — Courts.

87. The Supreme Court shall consist of the Chief Justice and two associated Justices any two of whom may hold a Court. And in the absence of the Chief Justice the senior Associated Justice shall preside. The three Justices have equal powers. — Supreme Court.

88. The King, with the consent of the Cabinet shall appoint Justices to the Supreme Court. And the Justices of the Supreme Court shall hold office during their good behaviour and shall receive salary from the Government as may be appointed by the King and Legislative Assembly And it shall be lawful for the Legislative Assembly to increase but not to diminish their salaries while they hold office. And should it appear to the Legislative Assembly that any of the Judges has been guilty of improper conduct it shall be lawful for the Legislative Assembly to impeach such Judge in accordance with the seventy-seventh clause. — Judges.

89. The Justices of the Supreme Court shall have power to direct the form of indictments and control the procedure of the lower Courts and make rules of procedure. — Powers of Judges.

90. Should any of the Governors or Ministers or Justices be impeached in the Legislative Assembly the Chief Justice shall preside in the Legislative Assembly during the trial. But if the Chief Justice be impeached in the Legislative Assembly the King shall appoint some person to preside during such trial. — Chief Justice to preside at impeachments.

91. Whenever the three Justices or two of the three Justices are agreed upon a decision such decision shall be final subject nevertheless to an appeal to the Privy Council in accordance with the fifty-fourth clause. — Decision final.

92. The Supreme Court shall have jurisdiction in all cases in Law and Equity arising under the Constitution and Laws of the Kingdom (excepting cases of felony which can be tried only by Jury) and in all matters concerning Treaties with Foreign States and Ministers and Consuls and in all cases affecting Public Ministers and Consuls and all Maritime cases. — Powers of Supreme Court.



Legal opinions

93. It shall be lawful for the King or the Cabinet or the Legislative Assembly to require the opinions of the Justices of the Supreme Court on important or difficult questions.

Judge may not hear appeal from own decision.

94. It shall not be lawful for any Justice to sit or adjudicate upon any new trial or appeal from any decision which he may have given.

Oath of Judge.

95. The Chief Justice and Justices shall take the following Oath :—" I swear in the presence of God that I will be loyal to George Tubou the lawful King of Tonga and that I will perform truly and with impartiality my duties as a Justice in accordance with the Constitution and the Laws of the King." The Justices shall read and sign this Oath in the presence of the Cabinet.

Fees.

96. The Legislative Assembly shall determine the fees payable to the various Courts. The Clerk of the Court shall keep the Court records.

Judge not to receive fine.

97. It shall not be lawful for any Justice or Police Magistrate to receive a portion of any fine paid by any person convicted of misdemeanour or for the Government to allot prisoners to serve any Justice or Magistrate or Policeman or juror or any other person as payment for duties discharged by them.

Jurors.

98. The Legislative Assembly to regulate the summoning of jurors and the fees if any they shall receive.

District Courts.

99. One of the Justices shall hold the District Court and the King and Legislative Assembly shall determine the number of District Courts which shall be held in this kingdom.

Trial by jury.

100. All cases brought before the District Court shall be tried by jury and any person accused of felony as defined in the twenty-fifth clause or any case which has been committed for trial from the Police Court shall be tried by a jury of twelve and the law of trial by jury shall never be repealed.

Form of verdict.

101. It is the duty of the Jury in criminal cases to pronounce whether the person accused is guilty or not guilty according to the evidence given before the Court. In civil cases the Jury shall give judgment for payment or compensation as the case may be and according to the merits of each case.

Judge to direct jury.

102. In criminal or civil cases the Judge shall direct the Jury upon the law bearing upon the case before the Court and assist them in arriving at a just decision upon the case before them. The Justice shall have power to refuse to admit evidence which he may deem to be irrelevant or improper.

Court days.

103. It shall be lawful for the District Courts to hear all criminal and civil cases brought before them but they shall not hear both civil and criminal cases on the same day. Different days shall be appointed for the hearing of civil and criminal cases.

Appeal.

104. Should any civil case be decided in a District Court and the plaintiff or defendant be dissatisfied with the decision he may appeal to the Supreme Court: and if the decision of the District Court shall appear to have been wrong the Supreme Court may reverse such decision.

105. The Chief Justice shall report once a year to the King upon the administration of Justice and the criminal statistics of the country and upon any amendments in the law which he may recommend. And the King shall lay this report before the Assembly at its next meeting in the same manner as the reports of the Ministers.

Chief Justice to report upon criminal statistics.

106. The King and Legislative Assembly shall determine the time and place for holding the Police Courts. And the Legislative Assembly shall limit the powers of the Police Magistrates in criminal and civil matters and shall determine what cases shall be committed for trial to the District Courts. Criminal and civil Courts shall be held at different times as provided in clause one hundred and three for the District Courts.

Powers of Police Courts.

107. Should any member of the Legislative Assembly lay a charge against any one of the Cabinet Ministers or Governors or Justices and impeach him before the Legislative Assembly the accused person shall receive the accusation in writing seven days before the trial shall be held. Such trial shall be conducted as provided in the eleventh clause. After all the witnesses have been heard the accused shall retire and when the Assembly have arrived at a decision he shall be brought before them and the decision announced to him. If he be found guilty it shall be lawful to dismiss him from office but if acquitted it shall not be lawful to impeach him again upon the same charge in accordance with the twelfth clause.

Procedure in impeachments.

108. The following offences shall be held to warrant impeachment as provided in clause one hundred and seven : Breach of the Laws or the Resolutions of the Legislative Assembly Mal-administration Incompetency Destruction or Embezzlement of the property of the Government or the performance of acts which may lead to difficulties between this and another country.

Offences warranting impeachment.

THE LAND.

109. All the land is the property of the King and he may at pleasure grant to the Nobles and titular Chiefs or Matabules one or more estates to become their hereditary estates. It is hereby declared by this Constitution that it shall not be lawful for any one at any time hereafter whether he be the King or any one of the Chiefs or the people of this country to sell any land whatever in the Kingdom of Tonga but they may lease it only in accordance with this Constitution. And this declaration shall become a covenant binding on the King and Chiefs of this Kingdom for themselves and their heirs and successors for ever.

Land vested in Crown.

Sale prohibited.

110. The Cabinet shall determine the terms for which leases shall be granted but no lease shall be granted for any longer period than ninety-nine years and the Cabinet shall determine the amount of rent for all lands which the King has transferred to the Government.

Terms of leases.

111. The forms of deed transfer and permit which have been sanctioned by His Majesty King George are hereby appointed to be the forms according to which all future deeds of leases transfers or permits shall be made.

Form of deed.

112. This Constitution shall not affect any leases which have been granted by the Government or any leases which have been promised whether leases of land in the interior or of town allotments

Existing leases respected.

such leases will be recognised by the Government but this exception shall not refer to any leases which may be granted after the granting of this Constitution.

Church lands not to be sub-let.

113. No leases of any town site shall in future be granted to any religious body for any purpose unless there are thirty adults male and female of such church in that town and it shall not be lawful for any religious body to use such leased lands for other than religious purposes or to sub-let to any other person and upon satisfactory proof before a Court that any such land has been sub-let such land shall revert to the Crown.

Beach frontage.

114. All the beach frontage of this Kingdom belongs to the Crown from fifty feet above high-water mark and it shall be lawful for the Government to lease any portion of the beach frontage for erecting a store jetty or wharf and the Minister of Lands with the consent of the Cabinet shall have power to grant such lease.

Registration of deeds.

115. All leases unless signed by the King himself shall be signed by the Minister of Lands and sealed with the seal of his office and countersigned by one of the Cabinet Ministers who shall affix the seal of his office and no lease or transfer will be considered valid or recognized by the Government unless registered in the office of the Minister of Lands.

Estates to be published.

116. At a convenient time after the publication of this Constitution the King shall cause to be published in the Gazette the names and estates of those Chiefs that have been granted hereditary titles that is the Nobles who have seats in the Legislative Assembly according to the sixty-third clause and the Chiefs who although not Nobles have been granted hereditary titles and estates.

Law of succession.

117. The following is the law of Succession :—Children lawfully born in wedlock only may inherit and the eldest male child shall succeed and the heirs of his body but if he have no descendants then the second male child and the heirs of his body and so on until all the male line is ended. Should there be no male child the eldest female child shall succeed and the heirs of her body and if she should have no descendants the second female child and the heirs of her body and so on until the female line is ended. And failing direct heirs the property shall revert to the eldest brother of the owner of the property beginning with the eldest and his heirs in succession to the youngest and their heirs in accordance with the law of inheritance. And if the brothers have no descendants it shall descend to the eldest sister and the female line as provided in the case of the male line. And if these should have no descendants and there should be no legitimate heir it shall revert to the Crown in accordance with the one hundredth and nineteenth clause. But should a female be next in succession to the title of a Noble or of a Hereditary Chief the next male heir shall inherit the title and estates. But should such female afterwards have a legitimate male issue the title and estates shall revert to the male issue of the female upon the death of the male in possession of the estate. Provided that the female that is the heir shall occupy the town allotment and the plantation lands appertaining to such title but the hereditary estates that is the lands occupied by the people shall be held by the inheritor of the title.

Estate without heirs to revert to Crown.

118. Should there be no legitimate heirs to an estate such estate shall revert to the King. But the King may confer the title and estate upon any other person and the person so appointed and his heirs shall possess such title and estates for ever.

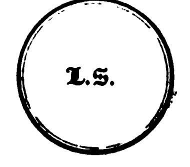


119. All tax lands shall be hereditary in the male line only (but this clause shall not prevent a widow from holding her deceased husband's lands so long as she remains unmarried and chaste) and every person who possesses a tax land shall pay the sum of one dollar (1$) per annum as rent to the Noble or Hereditary Chief or the King for such tax land. And all taxpayers having tax land shall have town allotments together with their inland tax lands and both will be recognised by the Government.

120. It shall not be lawful for any Noble Hereditary Chief or Tongan to lease any land to any foreigner without having first obtained the permission of the Cabinet.

121. This Constitution became law on the twenty-first day of December in the year of our Lord one thousand eight hundred and eighty-eight.

JIOAJI TUBOU.



UILIAME TUGI,
Speaker of the Legislative Assembly.

MISA BEIKA,
Premier.

ILAIAKIMI TUBO,
Clerk to the Privy Council.

TREATY OF FRIENDSHIP BETWEEN GERMANY AND TONGA.

Made by His Majesty the Emperor of Germany and His Majesty the King of Tonga on the first day of November 1876.

ARTICLE I.

There shall be peace and perpetual friendship between the States of the German Empire of the one part and Tonga of the other part also between their respective rulers and people without distinction of persons and places.

ARTICLE II.

The subjects of both contracting parties shall have in both countries the most perfect and perpetual protection for their persons and property. They shall enjoy in this respect the same rights and privileges as native subjects. Tongans in Germany and Germans in Tonga shall be exempted from all political offices and military services by land or water and from all similar corresponding services also from all war contributions forced loans military requisitions or services of whatsoever kind they may be. *Furthermore* they shall not in any case be subject in regard to their moveable and immoveable property to any other charges taxes or assesssments than those which are demanded from native subjects or from subjects of the most favoured nations.

ARTICLE III.

The Tongans who reside or sojourn in Germany and the Germans who reside or sojourn in Tonga shall enjoy perfect liberty of conscience and religious worship and the respective Governments shall not allow them to be molested or annoyed or disturbed on account of their religious faith or on account of the celebration of Divine service in private houses chapels churches or other places used for the purpose of Divine service always observing the religious propriety and due respect of the laws manners and customs of the country.

The subjects of both countries shall also have the privilege of burying their countrymen who may die in Germany or Tonga in suitable and convenient places which they may establish and maintain for that purpose with the consent of the local authorities and in no case shall their burial services in accordance with their religious customs be disturbed nor the graves be damaged or destroyed.

ARTICLE IV.

There shall be reciprocal full freedom of commerce between all the dominions of the German States and all the dominions of Tonga. The subjects of the two High Contracting Parties may enter with their vessels and cargoes into all places ports and waters of Germany and Tonga with all safety. The Tongans in Germany and the Germans in Tonga shall enjoy in this respect the same liberty and security as native subjects.

ARTICLE V.

There shall also be reciprocal liberty for the ships of war of the two High Contracting Parties to enter into all places ports and waters within the dominions of either party to anchor there and to remain take in stores refit and repair subject to the laws and regulations of the country. *In order* to facilitate the accomplishment of these objects in his dominions and especially to aid in the establishment of a coaling station in his dominions the King of Tonga grants (leases) [*no fonua*] the German Government all rights of free use of the necessary ground at a suitable appropriate place in the Vavau Group but always without prejudice to the rights of sovereignty of the King of Tonga.

ARTICLE VI.

The subjects of each of the two High Contracting Parties may with full liberty reciprocally proceed to any and every part of their respective territories and may reside there or undertake voyages and journeys carry on commerce wholesale or retail and fix the prices for merchandise and produce or other

articles of any kind whether imported by them or intended for export further particulars with regard to their mutual relations of commerce being reserved for a special Treaty of Commerce and Navigation. *They may furthermore* rent land and grounds and use and cultivate them with full liberty. They may erect houses warehouses and stores as they may desire on such rented lands or grounds and also buy rent and occupy such houses warehouses and stores. *In all* these cases the subjects of both States have to observe the laws and regulations of the country but in no case shall they be subject to any other general or local contributions assessments or obligations of whatever kind they may be but those which are imposed upon the native subjects. And any taxes dues charges and other obligations which may be enacted by the laws of the country with reference to any Government deeds of leases of lands or grounds besides the rent agreed upon shall have effect only with regard to the ordinary poll-taxes licenses and road repairs whilst any other respective extraordinary charges or assessments are reserved for an especial agreement between the High Contracting Parties.

ARTICLE VII.

Inasmuch as a separate Treaty or respective arrangements as mentioned in the preceding Article have been reserved with the view of further strengthening and promoting the mutual arrangements of the High Contracting Parties it is also reserved for the same object hereafter to regulate as deemed necessary the legal and civil (marriages) position of the subject of each State and of those who share their protection during their stay in the dominions of the other party and also the rights competencies and obligations of mutual consular representation by the conclusion of a separate Consular Treaty between the two High Contracting Parties.

ARTICLE VIII.

Each of the two High Contracting Parties hereby agrees not to grant in his dominions any monopolies indemnities or real privileges to the disadvantage of the commerce the flag or the subjects of the other nation.

ARTICLE IX.

The two High Contracting Parties agree to grant each other reciprocally with reference to the preceding Articles as many rights and privileges as may be granted in future to the most favoured nations.

ARTICLE X.

The present Treaty shall come into force and become valid from the day of the signing the same reserving that the same become invalid in case its ratification on the part of the German Government shall not take place within the space of one year from the date of its execution.

ARTICLE XI.

The present Treaty consisting of eleven Articles shall be ratified and the ratifications be exchanged at Nukualofa within the space of twelve months.

Ratified on the thirtieth day of October one thousand eight hundred and seventy-seven.

TREATY OF FRIENDSHIP BETWEEN GREAT BRITAIN AND TONGA.

Made by Her Majesty the Queen of Great Britain and Ireland and His Majesty the King of Tonga on the twenty-ninth day of November 1879 and Amended on the second day of June 1891.

ARTICLE I.

There shall be perpetual peace and friendship between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland her heirs and successors and His Majesty the King of Tonga his heirs and successors and between their respective dominions and subjects.

ARTICLE II.

His Majesty the King of Tonga engages to grant to no other Sovereign or State any rights powers authority or privileges in Tonga in excess of those accorded to Her Britannic Majesty.

The subjects of Her Britannic Majesty shall always enjoy in Tonga and Tongan subjects shall always enjoy in the territories of Her Britannic Majesty whatever rights privileges and immunities they now possess or which are now accorded to the subjects of the most favoured nation; and no rights privileges or immunities shall be granted hereafter in Tonga to the subjects of any Foreign State which shall not equally and unconditionally be granted to the subjects of Her Britannic Majesty.

ARTICLE III.

(a) If any subject of Her Britannic Majesty in Tonga is charged with a criminal offence cognisable by British Law such charge may be tried by the Court of Her Britannic Majesty's High Commissioner for the Western Pacific Islands.

(b) If any subject of Her Britannic Majesty is charged with the violation of any Law or Regulation in Tonga relating to Customs Taxation Public Health or Local Police not cognisable as an offence against British Law he shall be amenable to the jurisdiction of the Tongan Courts the proceedings of which shall be conducted in public and the records of which shall be public and accessible.

(c) Every civil suit which may be brought in Tonga against any subject of Her Britannic Majesty in Tonga shall be brought before and tried by the Court of Her Britannic Majesty's High Commissioner.

(d) Every summons or warrant to appear as a witness before the Court of Her Britannic Majesty's High Commissioner issued in accordance with British Law and directed to a Tongan subject shall if possible be endorsed by a Judge of the Supreme Court of Tonga, and when so endorsed shall have the same authority and may be enforced in like manner as if issued by the Supreme Court of Tonga but where it shall be made to appear to the Court that the delay required to procure such endorsement might lead to the escape or removal of a material witness such summons or warrant may be issued by the Court without such endorsement and shall have the same authority and may be enforced in like manner as if such summons or warrant had been directed to a subject of Her Britannic Majesty.

(e) The expression "British Law" in this Article includes any Regulations made and issued by Her Britannic Majesty's High Commissioner for the Western Pacific Islands for the government of British subjects within his jurisdiction and the Court of Her Majesty's High Commissioner shall include any British Court or Officer for the time being authorised to exercise jurisdiction in the Western Pacific.

ARTICLE IV.

Her Britannic Majesty agrees to surrender to His Majesty the King of Tonga any Tongan subject who being accused or convicted of any of the undermentioned crimes committed in the territory of the King of Tonga shall be found within the territory of Her Britannic Majesty.

The crimes for which such surrender may be granted are the following:—

Murder or Attempt to Murder
Embezzlement or Larceny
Fraudulent Bankruptcy
Forgery.

Her Britannic Majesty may however at any time put an end to this Article by giving notice to that effect to His Majesty the King of Tonga. The Article shall however remain in force for six months after notice of its termination.

It is agreed that the arrangement contained in this Article shall be subject to the restrictions on the surrender of fugitive criminals contained in the Acts respecting extradition which are in force in the dominions of Her Britannic Majesty and the procedure to be adopted with respect to the surrender of such criminals shall be in conformity with the provisions of the said Acts.

Ratified on the eighth day of September one thousand eight hundred and eighty-one.

TREATY OF FRIENDSHIP BETWEEN THE UNITED STATES OF AMERICA AND TONGA.

Made between the United States of America and His Majesty the King of Tonga.

ARTICLE I.

There shall be perpetual peace and amity between the United States of America and the King of Tonga his heirs and his successors.

ARTICLE II.

The citizens of the United States shall always enjoy in the dominions of the King of Tonga and Tongan subjects shall always enjoy in the United States whatever rights privileges and immunities are now accorded to citizens or subjects of the most favoured nation and no rights privileges or immunities shall be granted hereafter to any Foreign State or to the citizens or subjects of any Foreign State by either of the High Contracting Parties which shall not be also equally and unconditionally granted by the same to the other High Contracting Party its citizens or subjects it being understood that the parties hereto affirm the principle of the law of nations that no privilege granted for equivalent or on account of propinquity or other special conditions comes under the stipulations herein contained as to favoured nations.

ARTICLE III.

Citizens of the United States in Tonga and Tongans in the United States may visit sojourn and trade in any part of the respective jurisdictions and rent occupy and improve lands and erect dwellings offices and warehouses thereon subject to the laws and regulations of the country which shall however in no case except in respect of employment as labourers be more restrictive than those imposed upon the citizens or subjects of the respective country or upon the citizens or subjects of the most favoured nation.

ARTICLE IV.

There shall be reciprocal liberty of Commerce and Navigation between the United States and the Tonga Islands and no duty of Customs or other impost shall be charged upon any goods being the produce or manufacture of one country when imported therefrom into the other country other or higher than is charged upon the same the produce or manufacture of or imported from any other country.

ARTICLE V.

No other higher duties or charges on account of harbour dues pilotage quarantine salvage in case of damage or shipwreck or other shipping charges shall be imposed in the dominions of the King of Tonga on vessels of the United States or in the United States on Tongan vessels than are imposed on vessels belonging to the most favoured nation.

ARTICLE VI.

The ships-of-war of either of the High Contracting Parties may enter all ports places and waters within the jurisdiction of the other to anchor and remain take in stores refit and repair subject to the laws and regulations of the country. To enable this privilege to be carried out in his dominions the King of Tonga agrees to secure to the Government of the United States by lease at nominal rent with covenants of renewal all rights of free use of necessary ground in any harbour of the Tongan Islands which shall be mutually agreed upon for the purpose of establishing a permanent coaling and repair-station the rights of Tongan Sovereignty therein being fully reserved and admitted and in selecting a station for this purpose due regard shall be had for any similar concession which the King of Tonga has or may have granted by Treaty to any other Government.

ARTICLE VII.

All steam vessels which may be employed by the Government of the United States in the carrying of their mails in and across the Pacific Ocean shall have free access to all ports of the Tonga Islands and shall there be subject only to one-third of the usual harbour and pilotage dues provided that no vessel shall be entitled to such exemption except upon condition of carrying free of charge the Tongan mails to ports of destination and call of such vessel.

Article VIII.

The whaling or fishing vessels of the United States shall have free access to the ports and harbours of Tonga and in the ports of entry thereof shall be permitted to barter or trade their supplies or goods for provisions for the use of their own vessels and crews without being subject to the law relative to trading licenses and shall be subject to no port or harbour dues or pilotage whatever but this privilege of barter and trade shall not include the supplying of spirituous liquors or arms or ammunition to the Tongans. And such whaling or fishing vessels shall after having entered any port of entry in the Tonga Islands be at liberty to anchor off any island or reef thereof for the purpose of whaling or boiling down provided such vessel does not anchor within the distance of three nautical miles from any inhabited town but nothing in this clause shall be so construed as to permit infringement of the quarantine regulations of the dominions of the King of Tonga.

Article IX.

All citizens of the United States residing in the Tonga Islands and Tongan subjects residing in the United States shall be exempted from all compulsory military service whether by sea or land and from all forced loans military requisitions and quartering of troops. They shall moreover not be compelled to pay any other or higher taxes or license fees or personal dues of any kind than are or may be paid by the citizens or subjects of the High Contracting Party levying the same.

Article X.

Should any member of the ship's company desert from a vessel-of-war or merchant vessel of either of the High Contracting Parties while such vessel is within the territorial jurisdiction of the other the local authorities shall render all lawful assistance for the apprehension of such deserter on application to that effect made by the Consul of the High Contracting Party concerned or if there be no Consul then by the master of the vessel.

Article XI.

Each of the High Contracting Parties may appoint Consuls Vice-Consuls Commercial Agents and Vice-Commercial Agents for the protection of Trade to reside in the territory of the other High Contracting Party but before any Consular Officer so appointed shall act as such he shall in the usual form be approved of and admitted by the Government of the Country to which he is sent and all such Consular Officers shall enjoy the same privileges and powers with those of the most favoured nation.

Article XII.

Consuls and Consular Representatives of the United States in Tonga shall have all jurisdictional rights over civil and criminal matters concerning their own citizens and vessels in conformity with the statutes of the United States and the law of nations and they may call upon the authorities of Tonga for aid in making arrests or enforcing judgments. And citizens of the United States charged with committing offences against Tongans shall be amenable only to the Consular jurisdiction and shall be punished according to the law of the United States and Tongans charged with committing offences against citizens of the United States shall be tried by Tongan Courts and punished according to Tongan law. Claims of a civil nature against citizens of the United States shall be cognizable only in the Consular jurisdiction and Tongan Courts shall be open to citizens of the United States to prosecute such claims against Tongans according to law. Provided that citizens of the United States charged with violations of laws and regulations of Tonga relating to Customs taxation public health and local police not cognizable as such under the laws of the United States shall be amenable to the jurisdiction of the Tongan Courts upon notice to the nearest United States Consul or Commercial Agent if there be one resident in Tonga who shall have the right to be present at the trial and to direct or provide for the defence of the accused the proceedings at all such trials shall be public and the records thereof shall be public and accessible.

Article XIII.

Perfect and entire freedom of conscience and worship with right of sepulture according to their creed shall be enjoyed by the citizens or subjects f either of the High Contracting Parties within the jurisdiction of the other.



Article XIV.

This Treaty shall become effective upon promulgation and shall continue in force for ten years and thereafter until one year after notice shall have been given by one of the High Contracting Parties to the other of its desire to terminate the same save and except as to Article VI. (relative to the establishment of a coaling station) which shall be terminable only by mutual consent.

Article XV.

This Treaty shall be ratified and the ratifications exchanged at Nukualofa as soon as possible.

This Treaty is executed in duplicate one copy being in English and the other in Tongan both versions having the same meaning and intention but the English version shall be considered the original and shall control in case of any variance.

Ratified on the first day of August one thousand eight hundred and eighty-eight.

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